

R.S. 54:5-104.29 et seq.

R.S. 54:5-104.29 et seq.

August 22, 1963

COPY NO. ~~1~~ 2

LEGISLATIVE HISTORY OF R. S. 54:5-104.29 et seq.

(In Rem Tax Foreclosure)

In its first report, submitted to the Legislature February 23, 1946, the Tax Policy Commission recommended remedial legislation to decrease cost of foreclosures:

974.90 New Jersey Commission on State Tax Policy
T235 First report ... See p. 41-50
1946

In 1946, two bills to remedy the situation were introduced:

1946 - A-2 - Introduced March 4, 1946 by Mr. Jones.
This bill had statement. For action on this bill see record in Legislative Index.

1946 - S-124 - Introduced March 4, 1946 by Mr. Pascoe.
This bill had statement. Bill died in committee.

In February 1947, the following article appeared:

Albano, Nicholas
"In Rem" -- Memorandum on desirability of such proceedings
in New Jersey. 24 New Jersey Municipalities, February, 1947, p. 25

Laws 1947, Chapter 333 - S-221 - Introduced March 30, 1947 by Senator Lewis.
Amended in Senate. This bill had no statement.

Rather than revise the 1947 law, the legislature repealed it and enacted a new law by:

Laws 1948, Chapter 96, S-260 - Introduced March 15, 1948 by Mr. Lewis.
Amended by the Senate. This bill had statement:

This bill is a revision of P. L. 1947, c. 333. It is designed to provide a strictly In Rem procedure, and to simplify the proceedings under the 1947 act and to make it more adaptable to the needs of municipalities. It is submitted as a revision of the 1947 act in order to avoid the awkwardness and uncertainty which might arise through an attempt to correct the defects of the 1947 act by way of amendment and supplement. This bill is sponsored by the New Jersey State League of Municipalities and by the New Jersey Association of Municipal Attorneys.

RS/jmk

PROPERTY OF
NEW JERSEY STATE LIBRARY

185 W. State Street
Trenton, N. J.

Do Not Remove From Library

DEPOSITORY COPY

Legislative
Histories
6 Oct 1955

54:5-104.29 et seq. ✓
N. J. R. S. 54:5 - 104.29 to 104.71
L. 1948 c. 96
In Rem Tax Foreclosure.

October 6, 1955

MEMO:

SUBJECT: Materials relating to the passage of Chapter 96 of the Laws of 1948-
In Rem Tax Foreclosure.

We have made a search of the Library's holdings but find no record of any hearings or reports relative to the above act. We have contacted the State League of Municipalities who have loaned to us three mimeographed items which may be of interest to you.

We are also forwarding to you three bound volumes of the New Jersey Municipalities magazine. Articles which may be of help to you are so marked. These were submitted to the magazine by Nicholas Albano of the Tax Foreclosure Division of the City of Newark at that time. He is now secretary of the New Jersey Institute of Attorneys, City Hall, Newark, formerly known as the New Jersey association of municipal attorneys who sponsored with the State League of Municipalities Senate Bill No. 260 of 1948 which became Chapter 96 of the Laws of New Jersey for that year.

We have also checked the newspaper files during the time this bill progressed through the legislature but were unable to find any items relating to it.

The First Report of the New Jersey Commission on State Tax Policy included herewith deals with Tax Lien Foreclosure on pages 41 to 50.

NOTATIONS

SCR 8 Van Alstyne Apr. 8—(Without Reference) Directs State Tax Policy Commission study question of ratable loss by municipalities because of tax exempt property.

Apr. 8—Reported.
Apr. 8—Read second time.
Apr. 9—Amended.
Apr. 9—Passed in Senate, amended.
Apr. 10—Received in Assembly.
Apr. 10—No Reference.
Apr. 11—Read second time.
Apr. 11—Passed in Assembly.

SCR Pascoe Apr. 11—(Without Reference) Commends State Motor Vehicle Department for highway safety program.

Apr. 11—Passed in Senate.

SCR 10 Farley Apr. 12—(Without Reference) Requests Attorney General to apply to Supreme Court to change rules respecting admission of attorneys as counsellors-at-law.

Apr. 12—Passed in Senate.
Apr. 12—Passed in Assembly.

SCR 11 Failey Apr. 12—(Without Reference) Creates committee of commercial and sports fishermen to study fishing problems and conservation of fish in coastal waters and bays.

Apr. 12—Passed in Senate.
Apr. 12—Passed in Assembly.

ASSEMBLY BILLS

Complete History of Each Bill Introduced in the Lower House

A 1 W. H. Jones Mar. 11—Provides State Racing Commission of three members; requires Jockey Club approval for track employees prior to licensing by Commission; requires list of racing corporations' stockholders be filed with Commission; provides State receive portion of breakage under sliding scale depending on amounts wagered at races.
Mar. 11—Judiciary Com.

A 2 W. H. Jones Mar. 11—Provides actions in rem to bar redemption rights in vacant lands to which municipalities hold tax title liens; requires four-year lapse after tax sale date before such actions may be instituted; provides tax assessments on such property continue after tax sale.

Mar. 11—Judiciary Com.
Mar. 18—Reported by com. sub.
Mar. 18—Read second time.
Mar. 29—Amended.
Mar. 29—Com. sub. passed in Assembly, amended.

Apr. 1—Received in Senate.
Apr. 1—Taxation Com.
Apr. 10—Reported with com. amend's.
Apr. 10—Read second time.
Apr. 12—Passed in Senate, amended.
Apr. 12—Received in Assembly.
Apr. 12—Recalled by Senate.
Apr. 12—Reconsidered and Laid Over in Senate.

A 3 W. H. Jones Mar. 25—Permits veterans to qualify for public pension fund memberships containing maximum age limits if such veterans could have qualified at time of entering armed forces.

Apr. 1—Passed in Assembly.
Apr. 10—Passed in Senate.
May 6—Approved, Chapter 308.

A 4 W. H. Jones Mar. 25—Permits veterans to qualify for public positions containing maximum age limits if such veterans could have qualified at time of entering armed forces.

Apr. 1—Passed in Assembly.
Apr. 10—Passed in Senate.
Apr. 30—Approved, Chapter 203.

A 5 W. H. Jones Mar. 26—Permits Boards of Freeholders in first and second class counties to create sanitary sewer districts.

Mar. 26—Judiciary Com.
Mar. 26—Reported.
Mar. 29—Read second time.
Apr. 9—Amended.
Apr. 9—Passed in Assembly, amended.
Apr. 10—Received in Senate.
Apr. 10—No Reference.
Apr. 10—Read second time.
Apr. 10—Amended.
Apr. 10—Passed in Senate, amended.
Apr. 11—Sen. amend. passed in Assemb.
Apr. 23—Approved, Chapter 123.

NOTATIONS

A 6 W. H. Jones Apr. 1—Permits automobile short wave radio sets except in frequencies assigned to police, fire departments and other public agencies.

Apr. 9—Passed in Assembly.
Apr. 10—Passed in Senate.
May 3—Approved, Chapter 268.

A 7 W. H. Jones Jan. 14—Limits to three the number of race tracks permissible; provides breakage go to State.
Jan. 14—Judiciary Com.

A 8 Leonard Jan. 14—Provides \$6,000 yearly pension for Errors and Appeals Court Judges aged 64 and in judicial office 15 years.

Jan. 14—Judiciary Com.
Jan. 21—Reported by com. sub.
Jan. 21—Read second time.
Jan. 28—Com. sub., amended.
Jan. 28—Com. sub. passed in Assembly, amended.

Jan. 28—Received in Senate.
Jan. 28—Judiciary Com.

Feb. 11—Com. sub. reported with com. amend's.

Feb. 11—Read second time.
Feb. 11—Com. sub. passed in Senate, amended.

Feb. 11—Senate Amend. received fr Assembly.

Feb. 11—No Reference.
Feb. 11—Read second time.
Feb. 11—Sen. amend. passed in Assemb.

Feb. 15—Approved, Chapter 6.

A 9 Leonard Feb. 4—Fixes new license schedule for motor trucks of more than 15,000 pounds gross weight.

Feb. 4—Judiciary Com.
Mar. 18—Reported by com. sub.
Mar. 18—Read second time.

Mar. 18—Com. sub. passed in Assembly.

Apr. 1—Recalled from Senate.

Apr. 2—Received in Assembly.

Apr. 2—Reconsidered.

Apr. 2—Amended.

Apr. 2—Com. sub. passed in Assembly, amended.

Apr. 2—Received in Senate.

Apr. 2—No Reference.

Apr. 2—Read second time.

Apr. 2—Passed in Senate.

Apr. 4—Approved, Chapter 46.

A 10 W. H. Jones Apr. 8—(Without Reference) Increases State share of pari-mutuel wagers of race meets from four to six per cent.

Apr. 8—Read second time.

Apr. 8—Lost in Assembly.

A 11 W. H. Jones Apr. 8—(Without Reference) Provides breakage from race meets be paid to State; provides breakage be paid every seventh day during race meets with sworn statements of amounts.

Apr. 8—Read second time.

Apr. 8—Lost in Assembly.

Apr. 9—Reconsidered.

Apr. 9—Passed in Assembly.

Apr. 9—Received in Senate.

Apr. 9—Judiciary Com.

Apr. 11—Reported with com. amend's.

Apr. 11—Read second time.

Apr. 11—Passed in Senate, amended.

Apr. 12—Sen. amend. passed in Assemb.

Apr. 25—Approved, Chapter 169.

A 12 W. H. Jones Apr. 8—(Without Reference) Reduces permissible number of race tracks from four to three.

Apr. 8—Read second time.

Apr. 8—Lost in Assembly.

A 13 W. H. Jones Apr. 8—(Without Reference) Requires posting of information concerning directors and concerning stockholders owning one per cent of stock of racing associations; requires applications for race meets to be available for public inspection.

Apr. 8—Passed in Assembly.

Apr. 11—Passed in Senate.

Apr. 25—Approved, Chapter 170.

A 14 W. H. Jones Apr. 8—(Without Reference) Provides that racing stewards, accountants and veterinarians employed at race meets be paid by State.

Apr. 8—Passed in Assembly.

Apr. 11—Passed in Senate.

Apr. 26—Filed in State Library.

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1946

By Mr. PASCOE

Referred to Committee on Taxation

AN Act providing an additional and alternate remedy for the foreclosure of the right of redemption of vacant lands from tax sales where there has been no redemption for a period of seven years from the date of the tax sale, and supplementing chapter five of 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. When the premises covered by any certificate of tax sale consist of
2 vacant land, and when there has been no redemption within seven years from
3 the date of sale of the premises for which the certificate of tax sale was is-
4 sued, then in addition to, and as an alternate remedy to any other remedy
5 provided by any law, the purchaser, his heirs or assigns, after the expiration
6 of seven years from the date of the tax sale, whether notice to redeem has
7 been given or not, may institute a proceeding in equity in the Court of Chan-
8 cery, by filing a petition therein, to foreclose the right of redemption, without
9 specifically naming the persons who have or may have a right of redemption.
10 Upon filing the petition, the right to redeem shall exist and continue until
11 barred by the decree of the Court of Chancery.

1 2. The proceeding shall be entitled substantially as follows:

2 "In the Matter of the Foreclosing of Tax Sale Certificate of.....
3, affecting lands in.....
4 now or formerly of..... on Petition
5 of"

6 There shall be inserted in said title in the blank spaces the name of the
7 municipality which issued the certificate or certificates, the name or names of
8 the grantee or grantees appearing in the last deed of record in the county re-
9 cording office of the county in which the premises are located, and also the
10 name of the petitioner.

11 The respondents shall not be specifically named but shall be designated
12 by words substantially as follows: "the persons having or claiming to have
13 an interest in the parcel or parcels of vacant land described in the petition."

1 3. In any such proceeding the vacant lands to be affected thereby shall be
2 described in the petition as nearly as possible by metes and bounds or by
3 reference to a map filed in the office of the county recording office, in the county
4 where the premises are located, and by the designation shown on the tax dup-
5 licate of the municipality, including a recital of the name or names of the
6 grantee or grantees appearing in the last deed of record affecting the prem-
7 ises, in the said county recording office, and the number of the book and page
8 of said recorded deed, together with such other explanatory description as the
9 petitioner may desire to insert.

1 4. Upon or after the filing of the petition, an original notice in lieu of
2 a writ shall issue out of the Court of Chancery returnable sixty days after
3 the date of such issuance, requiring the respondents, if they so desire, to
4 answer or appear or give notice on or before such return date of intention to
5 redeem.

6 The original notice shall be delivered to the sheriff of the county wherein
7 the lands affected are situate. Such sheriff shall post a copy of the notice on
8 such lands within not less than thirty days prior to the return date of the
9 notice, and shall endorse a certificate of such posting upon the original notice,
10 which original notice and said endorsement shall be filed with the Court of
11 Chancery. For any such posting the sheriff shall be entitled to the same fees
12 as though he served a subpoena ad respondendum upon a defendant, and if
13 there be more than one posting required, he shall receive an additional fee of
14 one dollar (\$1.00) for each such posting, but not to exceed twenty-five dollars
15 (\$25.00) in all.

1 5. The notice shall set forth that a petition has been filed in the Court of
2 Chancery, giving the title of the proceedings, stating in substance the purpose
3 of the petition, and describing the lands affected sufficiently to identify them.
4 The notice shall state in substance that any and all persons having or claim-
5 ing to have an interest in said lands and desiring to contest the allegations of
6 the petition or to redeem the lands from the tax sale or tax sales, are required
7 to file in the office of the Clerk in Chancery an answer or notice of intention
8 to redeem and that such answer or notice to redeem must be filed in said
9 clerk's office on or before the date specified as the return date of the notice,
10 and said notice shall state in substance that upon failure to file an answer, or
11 upon failure to file such notice of intention within the time and at the place
12 aforesaid, a decree may be entered barring any and all right of redemption of
13 said lands from the tax sale or tax sales.

14 A copy of such original notice shall be published once a week for two
15 weeks consecutively in a newspaper published and circulating in the munici-
16 pality where the affected premises are located, and if there be no such news-
17 paper, then in a newspaper published and circulating in the county wherein
18 the premises are located. The first publication shall be not less than thirty
19 days before the return date specified in the notice. Proof of such publication
20 shall be filed with the Clerk in Chancery.

1 6. In any such proceeding, the State of New Jersey may be made a re-
2 spondent by serving a copy of the original notice upon the Attorney-General
3 together with a copy of the petition. Proof of service upon the Attorney-
4 General or acknowledgment of such service shall be filed with the Clerk in
5 Chancery.

1 7. By the final decree, the State of New Jersey may be barred from any
2 and all right to redeem the lands, and such decree shall effectually cut off
3 any interest of the State therein because of an escheat or by reason of any
4 lien for State taxes imposed subsequent to the time of the imposition of the
5 lien for the municipal taxes described in the tax sale certificate, and any
6 other lien which the State of New Jersey may have arising subsequent to the
7 imposition of the municipal taxes upon which the tax sale is based.

1 8. In any such proceeding, the county wherein the lands affected are
2 situate may be made a respondent by serving a copy of the original notice
3 upon the county clerk of such county not less than thirty days prior to
4 the return date of the notice, and by the final decree said county may be
5 barred from any right to redeem the lands, and such decree shall effectually
6 cut off any interest of the county therein.

1 9. In any such proceeding, causes of action of the same kind may be
2 joined irrespective of diversity of ownership or interest; *provided*, all of the
3 parcels of vacant land affected lie within the same taxing district.

1 10. A lis pendens shall be filed in respect to any such proceeding, and
2 when filed shall be deemed to be sufficiently indexed if indexed only against
3 the name or names of such grantee or grantees in the last deed of record
4 affecting the premises in the county recording office of the county in which
5 the affected premises are located.

1 11. The practice and procedure of the Court of Chancery applicable to
2 suits or proceedings in rem or quasi in rem in that court shall govern the
3 practice and procedure in any proceeding under the provisions of this act,
4 except as otherwise provided herein.

1 12. In any such proceeding, if an answer be filed within the time limited,
2 the issue or issues raised thereby shall be determined by the court.

3 If a notice or notices of intention to redeem be filed within the time
4 limited, the person filing the same shall be entitled to notice of the time and
5 place fixed for redemption and of the amount required to be paid to redeem,
6 as set by the Court of Chancery or by a Master to whom the matter may
7 be referred.

1 13. If no answer be filed, or if the issues raised by any answer shall be
2 determined adversely to the answering respondent, the amount required to
3 redeem and the time and place for redemption shall be fixed by the court,
4 or if the court shall not hear the matter itself, there shall be a reference
5 to a Master of the Court of Chancery to ascertain the truth of the allega-
6 tions of the petition and to report thereon, including the amount required
7 to redeem and the time and place fixed for redemption. The Master shall

8 report the amount required to be paid to redeem the lands and shall specify
9 the time and place fixed for such redemption, and unless there be cause to
10 the contrary, such report shall be confirmed by the court.

11 A notice of the amount required to redeem and of the time and place
12 for redemption shall be posted upon the lands affected, not less than twenty
13 days before the date set for redemption, and there shall be one publica-
14 tion of such notice in a newspaper published and circulating in the munici-
15 pality where the premises are located, and if there be no such newspaper,
16 then in a newspaper published and circulating in the county wherein the
17 premises are located, such publication to take place not less than twenty
18 days before the date set for redemption. Proof of such posting and such
19 publication shall be filed with the Clerk in Chancery.

1 14. If the lands affected are not redeemed within the time limited, as
2 shown by the report of the Master to whom the matter was referred and
3 filed with the clerk of the court, the petitioner shall be entitled to a decree,
4 barring all right of redemption from the affected lands, and decreeing that
5 the petitioner has an absolute and indefeasible estate of inheritance in fee
6 simple therein, and that no other person, nor the State of New Jersey, nor
7 the county wherein the lands are situate, has any interest therein.

1 15. The Court of Chancery, upon the filing of a petition under this act,
2 may give full and complete relief in accordance with the provisions of this
3 act and in accordance with any other statutory authority and with the prac-
4 tice of the court, to bar the right of redemption and to foreclose all prior
5 or subsequent alienations and descents of the lands and encumbrances
6 thereon, and to decree an absolute and indefeasible estate of inheritance in
7 fee simple to be vested in the petitioner. The decree shall be final upon the
8 respondents, their heirs, devisees and personal representatives and their or
9 any of their heirs, devisees, executors, administrators, grantees, assigns or
10 successors in right, title or interest, and no application shall be entered to
11 reopen the decree after three months from the date thereof, and then only
12 upon the grounds of lack of jurisdiction or fraud in the conduct of the suit.

1 16. The posting and publication of the original notice under the provi-
2 sions of this act shall be valid and effective with respect to all of the re-
3 spondents even though one or more of them may be infant, incompetent or
4 nonresident.

1 17. No final decree shall be entered except in cases where a municipal-
2 ity is the petitioner, unless evidence is produced in the proceeding that all
3 subsequent municipal liens have been paid at the time of the commence-
4 ment of the suit.

1 18. In any such proceeding in the Court of Chancery to foreclose the
2 right to redeem lands from the lien of a certificate of sale thereof issued
3 for nonpayment of taxes or other municipal lien, the validity of the tax or
4 other municipal lien for which the sale was made and certificate issued, and
5 the validity of the proceedings to sell the lands shall be conclusively pre-
6 sumed unless a respondent in the suit shall by answer set up as a defense
7 thereto the invalidity of the tax or other municipal lien or the invalidity
8 of the proceedings to sell or the invalidity of the sale.

1 19. In any proceeding brought under the provisions of this act, if a
2 respondent shall answer and set up as a defense thereto the invalidity of
3 the tax or other municipal lien or the invalidity of the proceedings to sell,
4 or the invalidity of the sale, such an answer shall operate as a stay of the
5 proceedings in the Court of Chancery for four months from the date of the
6 filing of such answer, to enable such respondent to apply for a writ of cer-
7 tiorari to review the legality of the tax or other municipal lien, the pro-
8 ceedings to sell or the sale, and if such a writ shall issue, the proceedings
9 shall be stayed until the final determination of the writ shall have been
10 made. If the respondent fails to obtain a writ of certiorari for said pur-
11 poses within four months after the filing of the answer, the court shall
12 strike out such part of the answer as denies the validity of the tax or legal-
13 ity of proceedings to sell or the sale, and shall proceed as if no such defense
14 had been interposed. No writ of certiorari shall be allowed in any case un-
15 der this act after the time in which to file an answer or notice to redeem has
16 expired, or after the expiration of four months from the filing of an answer

17 denying the validity of the tax or other municipal lien for which the lands
18 were sold and certificate issued, or denying the legality of the proceedings
19 to sell the lands or denying the legality of sale if such answer be filed.

1 20. In the amount required to redeem, there shall be included petition-
2 er's costs of the proceedings and such reasonable fees for an examination
3 of the title and counsel fees as the court may provide. Such costs and such
4 allowances shall not be decreed to be paid by any respondent.

1 21. This act shall take effect immediately.

STATEMENT

The purpose of this amendment is to simplify procedure in tax foreclosure by municipalities or holders of tax sale certificates in the case of vacant land when there has been no redemption within a period of seven years from the date of the sale. The object is to save to municipalities the expense of searches and other avoidable costs which are disproportionate as against the value of the property, and when it is evident through lapse of time and accumulation of arrearages that there is no interest in redemption. This legislation is desired by municipalities as an aid in clearing their tax delinquent records and helping to restore among ratables vacant land for which there are certificates of tax sale that have not been foreclosed because foreclosure costs under present requirements are too high as compared to what could be obtained for the property, resulting in such certificates continuing dormant and such vacant land remaining virtually useless and productive of no revenue to the municipality.

The act would be permissive and not mandatory. It would remain open to municipalities or holders of certificates to proceed as heretofore if they wished and if they thought that preferable. This legislation would not detract from any existing rights or remedies. The method of procedure is in line with the principle of other existing legislation relating to tax foreclosures, and it is conformable with the purpose outlined in R. S. 54:5-85, declaring that the laws shall be regarded as remedial legislation to encourage the barring of rights of redemption and for the decreeing of marketable titles.

August 22, 1963

COPY NO. 2

A-2
1946

10 items offered for sale in such notice shall be that contained in the delin-
11 quent tax list with such other description, if any, as the court may direct.

12 (c) In directing any conveyance pursuant to this section, the judgment
13 shall direct the tax collector of the municipality to prepare and execute a
14 deed conveying title to the parcel or parcels concerned. Upon the execu-
15 tion of such deed the grantee shall be seized of an estate in fee simple abso-
16 lute in such parcel, and all other persons, including the State of New Jer-
17 sey, infants, incompetents, absentees and nonresidents of the State of New
18 Jersey, who may have had any right, title, interest, claim, lien or equity
19 of redemption in or upon such parcel shall be barred and forever foreclosed
20 of all such right, title, interest, claim, lien or equity of redemption.

21 20. All acts and parts of acts inconsistent herewith are, to the extent
22 of such inconsistency, hereby repealed. If any clause, sentence, paragraph,
23 section or part of this act shall be adjudged by any court of competent juris-
24 diction to be invalid, such judgment shall not affect, impair or invalidate
25 the remainder thereof, but shall be confined in its operation to the clause,
26 sentence, paragraph, section, or part thereof directly involved in the con-
27 troversy in which such judgment shall have rendered.

28 21. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to carry out the recommendations contained
in the First Report of the Commission on State Tax Policy (submitted Feb-
ruary 28, 1946) with respect to the foreclosure of tax title liens held by munici-
palities. The bill sets up what is known as an action in rem to bar the right
of redemption in vacant land to which a municipality holds a tax title lien.
The procedure may be used only by a municipality, and only after the expira-
tion of four years from the date of a tax sale. It would apply principally in
areas of the State containing low value lots and acreage which have long been
tax delinquent.

After a tax sale of such delinquent property, it continues to be assessed for State, county, municipal and school district purposes although it produces no tax revenue. The result is that the tax-paying residents of municipalities burdened with such delinquent property are required to make up State, county, and in some cases school district taxes apportioned to the municipalities on the basis of these frozen "ratables." This bill would permit municipalities to acquire title in fee simple absolute to the vacant land in question, at reasonable cost, and thereby remove it from the tax rolls as well as facilitate its return to the most appropriate public or private use.

7

}