

ASSEMBLY, No. 481

STATE OF NEW JERSEY

INTRODUCED APRIL 23, 1956

By Messrs. MUSTO and GOFF

Referred to Committee on State, County and Municipal Government

AN ACT to amend the title of "An act authorizing municipalities to adopt ordinances relating to the repair, closing and demolition of dwellings unfit for human habitation; and providing for the remedies and procedure in connection with action taken under such ordinances," approved May 2, 1942 (P. L. 1942, c. 112), so that the same shall read "An act authorizing municipalities to adopt ordinances relating to the repair, closing and demolition of buildings unfit for human habitation or occupancy or use; and providing for the remedies and procedure in connection with action taken under such ordinances," and to amend the body of said act.

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

1 1. The title of "An act authorizing municipalities to adopt ordinances
2 relating to the repair, closing and demolition of dwellings unfit for human
3 habitation; and providing for the remedies and procedure in connection with
4 action taken under such ordinances," approved May 2, 1942, is amended to
5 read "An act authorizing municipalities to adopt ordinances relating to the
6 repair, closing and demolition of buildings unfit for human habitation or oc-
7 cupancy or use; and providing for the remedies and procedure in connection
8 with action taken under such ordinances."

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

1 2. Section 1 of the act of which this act is amendatory is amended to read
2 as follows:

3 1. It is hereby found and declared that the existence [and] or occupa-
4 tion of [dwellings] *any building or buildings, or parts thereof*, in munici-
5 palities of this State which are *so old, dilapidated or have become so out of*
6 *repair as to be dangerous, unsafe, unsanitary or otherwise* unfit for human
7 *habitation, or occupancy, or use*, are inimical to the welfare and dangerous
8 and injurious to the health and safety of the people of this State, and that
9 a public necessity exists for the repair, closing or demolition of such [dwell-
10 ings] *building or buildings, or part thereof*. Whenever any municipality
11 of this State finds that there exists in such municipality [dwellings] *any*
12 *building or buildings* which are unfit for human habitation *or occupancy, or*
13 *use*, due to dilapidation, defects increasing the hazards of fire, accidents or
14 other calamities, lack of ventilation, light or sanitation facilities, or due to
15 other conditions rendering such [dwellings] *building or buildings, or part*
16 *thereof*, unsafe or insanitary, or dangerous or detrimental to the health or
17 safety or otherwise inimical to the welfare of the residents of said munici-
18 pality, power is hereby conferred upon such municipality to exercise its po-
19 lice powers to repair, close or demolish, *or cause or require the repairing,*
20 *closing or demolition of such building or buildings, or part thereof*, [the afore-
21 said dwellings] in the manner herein provided.

1 3. Section 2 of the act of which this act is amendatory is amended to read
2 as follows:

3 2. The following terms whenever used or referred to in this act shall have
4 the following respective meanings for the purposes of this act, unless a dif-
5 ferent meaning clearly appears from the context:

6 (a) "Governing body" shall mean the council, board of commissioners,
7 trustees, committee, or other legislative body, charged with governing a mu-
8 nicipality; provided, that in cities of the second class having a board of fire
9 and police commissioners, the governing body shall mean such board of fire
10 and police commissioners.

11 (b) "Public officer" shall mean the officer [or] , officers, *board or body*
12 who *is or* are authorized by ordinances adopted hereunder to exercise the
13 powers prescribed by such ordinances and by this act.

14 (c) "Public authority" shall mean any housing authority or any officer
15 who is in charge of any department or branch of the government of the mu-
16 nicipality, county or State relating to health, fire, building regulations, or to
17 other activities concerning [dwellings] *buildings* in the municipality.

18 (d) "Owner" shall mean the holder *or holders* of the title in fee simple.

19 (e) "Parties in interest" shall mean all individuals, associations and
20 corporations who have interests of record in a [dwelling] *building* and any
21 who are in *actual* possession thereof.

22 (f) ["Dwelling"] "*Building*" shall mean any building, or structure, or
23 part thereof, *whether* used [and occupied] for human habitation [or in-
24 tended to be so used] *or otherwise*, and includes any outhouses, and appur-
25 tenances belonging thereto or usually enjoyed therewith.

1 4. Section 3 of the act of which this act is amendatory is amended to read
2 as follows:

3 3. Upon the adoption of a resolution finding that [dwelling] *building*
4 conditions of the character described in section 1 hereof exist within a munic-
5 ipality, the governing body of such municipality is hereby authorized to adopt
6 an ordinance relating to [dwellings] *buildings* within such municipality which
7 are unfit for human habitation *or occupancy or use*. Such ordinance shall in-
8 clude the following provisions:

9 (a) That a public officer be designated or appointed to exercise the pow-
10 ers prescribed by the ordinance.

11 (b) That whenever a petition is filed with the public officer by a public
12 authority or by at least 5 residents of the municipality charging that any
13 [dwelling] *building* is unfit for human habitation *or occupancy or use* or
14 whenever it appears to the public officer (on his own motion) that any
15 [dwelling] *building* is unfit for human habitation *or occupancy or use*, the
16 public officer shall, if his preliminary investigation discloses a basis for such

17 charges, issue and cause to be served upon the owner of and parties in inter-
18 est in such [dwelling] *building* a complaint stating the charges in that re-
19 spect and containing a notice that a hearing will be held before the public
20 officer (or his designated agent) at a place therein fixed not less than 10 days
21 nor more than 30 days after the serving of said complaint; that the owner
22 and parties in interest shall be given the right to file an answer to the com-
23 plaint and to appear in person, or otherwise, and give testimony at the place
24 and time fixed in the complaint; and that the rules of evidence prevailing in
25 the courts shall not be controlling in hearings before the public officer.

26 (c) That if, after such notice and hearing, the public officer determines
27 that the [dwelling] *building* under consideration is unfit for human habi-
28 tation *or occupancy or use* he shall state in writing his findings of fact in sup-
29 port of such determination and shall issue and cause to be served upon the
30 owner thereof and parties in interest an order:

31 [(1) if the repair, alteration or improvement of the said dwelling
32 can be made at a reasonable cost in relation to the value of the dwelling
33 (the ordinance of the municipality may fix a certain percentage of such
34 cost as being reasonable for such purpose), requiring the owner (to the
35 extent and within the time specified in the order) to repair, alter or im-
36 prove the said dwelling to render it fit for human habitation or, at the
37 option of the owner, to vacate and close the dwelling as a human habi-
38 tation; or,

39 (2) if the repair, alteration or improvement of the said dwelling
40 cannot be made at a reasonable cost in relation to the value of the dwell-
41 ing (the ordinance of the municipality may fix a certain percentage of
42 such cost as being reasonable for such purpose), requiring the owner
43 (within the time specified in the order) to remove or demolish such
44 dwelling.]

45 (1) *Requiring the repair, alteration or improvement of the said*
46 *building to be made by the owner, within a reasonable time, which time*
47 *shall be set forth in the order or at the option of the owner to vacate or*

48 *have the said building vacated and closed within the time set forth in the*
49 *order; and*

50 (2) *if the building is in such a condition as to make it dangerous to*
51 *the health and safety of persons on or near the premises, and the owner*
52 *fails to repair, alter or improve the said building within the time specified*
53 *in the order, then the owner shall be required to remove or demolish the*
54 *said building within a reasonable time as specified in the said order of*
55 *removal.*

56 (d) That, if the owner fails to comply with an order to repair, alter or
57 improve or, at the option of the owner, to vacate and close the [dwelling]
58 *building*, the public officer may cause such [dwelling] *building* to be repaired,
59 altered or improved, or to be vacated and closed; that the public officer may
60 cause to be posted on the main entrance of any [dwelling] *building* so closed,
61 a placard with the following words: "This building is unfit for human habi-
62 *tation or occupancy or use*; the use or occupation of this building [for human
63 *habitation*] is prohibited and unlawful."

64 (e) That, if the owner fails to comply with an order to remove or de-
65 molish the [dwelling] *building*, the public officer may cause such [dwelling]
66 *building* to be removed or demolished.

67 (f) That the amount of such cost of such repairs, alterations or improve-
68 ments, or vacating and closing, or removal or demolition shall be a municipal
69 lien against the real property upon which such cost was incurred. *That the de-*
70 *tailed statement of the aforesaid costs shall be filed with the municipal tax*
71 *assessor or other custodian of the records of tax liens, and that a copy of the*
72 *said detailed statement be forthwith forwarded to the owner by registered*
73 *mail*. If the [dwelling] *building* is removed or demolished by the public of-
74 ficer, he shall sell the materials of such [dwelling] *building* and shall credit
75 the proceeds of such sale against the cost of the removal or demolition and
76 any balance remaining shall be deposited in the Superior Court by the public
77 officer, shall be secured in such manner as may be directed by such court,
78 and shall be disbursed according to the order or judgment of the court to the

79 persons found to be entitled thereto by final order or judgment of such court;
 80 provided, however, that nothing in this section shall be construed to impair or
 81 limit in any way the power of the municipality to define and declare nuisances
 82 and to cause their removal or abatement, by summary proceedings or other-
 83 wise. *Any owner or party in interest may, within 60 days from the date of the*
 84 *filing of the lien certificate, proceed in a summary manner in the Superior*
 85 *Court to contest the reasonableness of the amount or the accuracy of the costs*
 86 *set forth in the municipal lien certificate.*

1 5. Section 4 of the act of which this act is amendatory is amended to
 2 read as follows:

3 4. An ordinance adopted by a municipality under this act shall provide
 4 that the public officer may determine that a [dwelling] *building* is unfit for
 5 human habitation *or occupancy or use* if he finds that conditions exist in such
 6 [dwelling] *building* which are dangerous or injurious to the health or safety
 7 of the occupants of such [dwelling] *building*, the occupants of neighboring
 8 [dwellings] *buildings* or other residents or such municipality; such condi-
 9 tions may include the following (without limiting the generality of the fore-
 10 going): defects therein increasing the hazards of fire, accident, or other
 11 calamities; lack of adequate ventilation, light, or sanitary facilities; dilapi-
 12 dation; disrepair, structural defects; uncleanliness; such ordinance may pro-
 13 vide additional standards to guide the public officer, or his agents, in deter-
 14 mining the fitness of a [dwelling] *building* for human habitation *or occu-*
 15 *pancy or use.*

1 6. Section 5 of the act of which this act is amendatory is amended to
 2 read as follows:

3 5. Complaints or orders issued by a public officer pursuant to an ordi-
 4 nance adopted under this act shall be served upon persons either personally
 5 or by registered mail, but if the whereabouts of such persons is unknown
 6 and the same cannot be ascertained by the public officer in the exercise of
 7 reasonable diligence, and the public officer shall make an affidavit to that
 8 effect, then the serving of such complaint or order upon such persons may

9 be made by publishing the same once each week for 2 successive weeks in a
10 newspaper printed and published in the municipality, or, in the absence of
11 such newspaper, in one printed and published in the county and circulating
12 in the municipality in which the [dwellings] *buildings* are located. A copy
13 of such complaint or order shall be posted in a conspicuous place on prem-
14 ises affected by the complaint or order. A copy of such complaint or order
15 shall be duly recorded or lodged for record with the county recording officer
16 of the county in which the [dwelling] *building* is located.

1 7. Section 7 of the act of which this act is amendatory is amended to
2 read as follows:

3 7. An ordinance adopted by the governing body of the municipality
4 may authorize the public officer to exercise such powers as may be neces-
5 sary or convenient to carry out and effectuate the purposes and provisions
6 of this act, including the following powers in addition to others herein
7 granted; (a) to investigate the [dwelling] *building* conditions in the munici-
8 pality in order to determine which [dwellings] *buildings* therein are unfit for
9 human habitation *or occupancy or use*; (b) to administer oaths, affirmations,
10 examine witnesses and receive evidence; (c) to enter upon premises for the
11 purpose of making examinations; provided, that such entries shall be made
12 in such manner as to cause the least possible inconvenience to the persons
13 in possession; (d) to appoint and fix the duties of such officers, agents and
14 employees as he deems necessary to carry out the purposes of the ordi-
15 nances; and (e) to delegate any of his functions and powers under the ordi-
16 nance to such officers and agents as he may designate.

1 8. Section 8 of the act of which this act is amendatory is amended to
2 read as follows:

3 8. The governing body of any municipality adopting an ordinance under
4 this act shall as soon as possible thereafter prepare an estimate of the
5 annual expenses or costs to provide the equipment, personnel and supplies
6 necessary for periodic examinations and investigations of the [dwellings]
7 *buildings* in such municipality for the purpose of determining the fitness of

8 such [dwellings] buildings for human habitation or occupancy or use, and
9 for the enforcement and administration of its ordinances adopted under this
10 act; and any such municipality is authorized to make such appropriations
11 from its revenues as it may deem necessary for this purpose and may accept
12 and apply grants or donations to assist it in carrying out the provisions of
13 such ordinances.

1 9. This act shall take effect immediately.