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LAW/RWH

P.L.2013, CHAPTER 192, *approved January 17, 2014*

Senate, No. 124 (*First Reprint*)

1 AN ACT concerning certain advertisements on real property and
2 supplementing chapter 48 of Title 40 of the Revised Statutes.

3

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

6

7 1. a. A person shall not post or otherwise display any temporary
8 commercial or business advertisement, to induce directly or
9 indirectly any person to enter into any obligation or acquire title or
10 interest in any property, object, ware, good, commodity, or service,
11 on any real property located within a municipality, or any building,
12 pole, post or other structure on the property, without the prior
13 written permission of the owner of record for the property, or the
14 building or other structure thereon. This subsection shall not apply
15 to a person posting or otherwise displaying a temporary
16 advertisement containing information and directional indicators
17 inviting the public to purchase or lease real property at a real estate
18 open house or similar event for that property.

19 b. The governing body of every municipality ¹~~shall~~ may¹
20 make, amend, and repeal ordinances to enforce the provisions of
21 subsection a. of this section. ¹~~The ordinances~~ An ordinance so
22 adopted¹ shall set forth procedures for reporting violations and shall
23 also prescribe penalties for violations in accordance with R.S.40:49-
24 5. Ordinances adopted pursuant to this section shall be consistent
25 with the purposes of P.L.1991, c.413 (C.27:5-5 et seq.) to the extent
26 necessary to allow the State to carry out the policy as declared
27 therein. In the event of conflict between an ordinance adopted
28 pursuant to this section and the provisions of P.L.1991, c.413
29 (C.27:5-5 et seq.), or the regulations promulgated pursuant thereto,
30 section 22 of P.L.1991, c.413 (C.27:5-26) shall govern.

31 c. (1) The municipality shall ¹have the power to¹ remove or
32 cause to be removed any advertisement posted or displayed in
33 violation of subsection a. of this section. The procedure for
34 removal shall be set forth in ¹~~the ordinances~~ any ordinance so
35 adopted¹.

36 (2) (a) Whenever the municipality removes, or causes to be
37 removed, an advertisement, the municipality ¹~~shall~~ may¹ present
38 the person who posted or otherwise displayed the removed
39 advertisement, or the business advertised in the removed

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:

¹Senate SCU committee amendments adopted June 7, 2012.

1 advertisement, by certified and regular mail, a detailed itemization
2 of the costs of removal incurred by the municipality, requiring
3 reimbursement by that person or business of the removal costs.

4 (b) If the person or business does not provide reimbursement
5 within 30 days of receipt of the municipal itemization, the
6 municipality ¹~~shall~~ may¹ enforce the payment of these costs,
7 together with interest and reasonable collection costs, by instituting
8 an action at law for the collection thereof. The Superior Court ¹, or
9 the municipal court,¹ shall have jurisdiction of any collection
10 action.

11 d. The money collected by the municipality for advertisement
12 removal shall be credited, along with any other funds made
13 available, to a municipal advertisement removal fund, which the
14 municipality shall establish by ordinance. The ordinance shall
15 include guidelines establishing the parameters governing the
16 expenditure of money from the fund, which shall be used
17 exclusively to remove advertisements and otherwise enforce the
18 provisions of this section, and to administer the fund.

19 e. The municipality ¹~~shall~~ may¹ report to the Division of
20 Consumer Affairs, in the Department of Law and Public Safety, for
21 further investigation by the division, any pattern or practice of
22 advertisements posted or otherwise displayed in violation of
23 subsection a. of this section, which reasonably appears to violate the
24 provisions of P.L.1960, c.39 (C.56:8-1 et seq.). Any report by a
25 municipality to the division under this subsection shall be
26 investigated by the division ¹as may be warranted¹.

27

28 2. This act shall take effect on the 60th day following
29 enactment.

30

31

32

33

34 Prohibits certain advertising on real property and related
35 structures without prior permission of owner.

SENATE, No. 124

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Prohibits certain advertising on real property and related structures without prior permission of owner.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain advertisements on real property and
2 supplementing chapter 48 of Title 40 of the Revised Statutes.

3

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

6

7 1. a. A person shall not post or otherwise display any
8 temporary commercial or business advertisement, to induce directly
9 or indirectly any person to enter into any obligation or acquire title
10 or interest in any property, object, ware, good, commodity, or
11 service, on any real property located within a municipality, or any
12 building, pole, post or other structure on the property, without the
13 prior written permission of the owner of record for the property, or
14 the building or other structure thereon. This subsection shall not
15 apply to a person posting or otherwise displaying a temporary
16 advertisement containing information and directional indicators
17 inviting the public to purchase or lease real property at a real estate
18 open house or similar event for that property.

19 b. The governing body of every municipality shall make,
20 amend, and repeal ordinances to enforce the provisions of
21 subsection a. of this section. The ordinances shall set forth
22 procedures for reporting violations and shall also prescribe penalties
23 for violations in accordance with R.S.40:49-5. Ordinances adopted
24 pursuant to this section shall be consistent with the purposes of
25 P.L.1991, c.413 (C.27:5-5 et seq.) to the extent necessary to allow
26 the State to carry out the policy as declared therein. In the event of
27 conflict between an ordinance adopted pursuant to this section and
28 the provisions of P.L.1991, c.413 (C.27:5-5 et seq.), or the
29 regulations promulgated pursuant thereto, section 22 of P.L.1991,
30 c.413 (C.27:5-26) shall govern.

31 c. (1) The municipality shall remove or cause to be removed
32 any advertisement posted or displayed in violation of subsection a.
33 of this section. The procedure for removal shall be set forth in the
34 ordinances.

35 (2) (a) Whenever the municipality removes, or causes to be
36 removed, an advertisement, the municipality shall present the
37 person who posted or otherwise displayed the removed
38 advertisement, or the business advertised in the removed
39 advertisement, by certified and regular mail, a detailed itemization
40 of the costs of removal incurred by the municipality, requiring
41 reimbursement by that person or business of the removal costs.

42 (b) If the person or business does not provide reimbursement
43 within 30 days of receipt of the municipal itemization, the
44 municipality shall enforce the payment of these costs, together with
45 interest and reasonable collection costs, by instituting an action at
46 law for the collection thereof. The Superior Court shall have
47 jurisdiction of any collection action.

S124 RICE

1 d. The money collected by the municipality for advertisement
2 removal shall be credited, along with any other funds made
3 available, to a municipal advertisement removal fund, which the
4 municipality shall establish by ordinance. The ordinance shall
5 include guidelines establishing the parameters governing the
6 expenditure of money from the fund, which shall be used
7 exclusively to remove advertisements and otherwise enforce the
8 provisions of this section, and to administer the fund.

9 e. The municipality shall report to the Division of Consumer
10 Affairs, in the Department of Law and Public Safety, for further
11 investigation by the division, any pattern or practice of
12 advertisements posted or otherwise displayed in violation of
13 subsection a. of this section, which reasonably appears to violate the
14 provisions of P.L.1960, c.39 (C.56:8-1 et seq.). Any report by a
15 municipality to the division under this subsection shall be
16 investigated by the division.

17
18 2. This act shall take effect on the 60th day following
19 enactment.

20
21

22 **STATEMENT**

23
24 This bill prohibits any person from posting or otherwise
25 displaying any advertisement on real property located within a
26 municipality, or any building, pole, post or other structure on the
27 property, without the prior written permission of the owner of
28 record for the property, or the building or other structure thereon. It
29 provides an exception for any person posting or otherwise
30 displaying a temporary advertisement containing information and
31 directional indicators inviting the public to purchase or lease real
32 property at a real estate open house or similar event for that
33 property.

34 The bill requires the governing body of every municipality to
35 enact ordinances to enforce the bill's provisions. These ordinances
36 shall not overstep the jurisdiction of the Department of
37 Transportation regarding billboards and outdoor advertising
38 pursuant to the "Roadside Sign Control and Outdoor Advertising
39 Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires such
40 ordinances to be consistent with the purposes of that act. In the
41 event of any conflict between an adopted ordinance and the act, the
42 provisions of the act shall prevail.

43 The municipal ordinances shall include procedures for reporting
44 violations and shall also include penalty provisions in accordance
45 with R.S.40:49-5, which penalties include: imprisonment for any
46 term not exceeding 90 days; a fine not exceeding \$2,000; or a
47 period of community service not exceeding 90 days.

S124 RICE

1 A municipality shall remove or cause to be removed any
2 advertisement posted or otherwise displayed without prior
3 permission. The procedure for removal shall be set forth in the
4 ordinances. If a municipality removes, or causes to be removed, an
5 advertisement, the municipality shall present the person who posted
6 or otherwise displayed the removed advertisement, or the business
7 advertised in the removed advertisement, an itemization of the costs
8 incurred by the municipality for reimbursement. If the person or
9 business does not provide reimbursement within 30 days of receipt
10 of the municipal itemization, the municipality shall enforce the
11 payment of these costs by instituting legal action for their
12 collection.

13 The money collected by the municipality for advertisement
14 removal shall be credited, along with any other funds made
15 available, to a municipal advertisement removal fund, which the
16 municipality shall also establish by ordinance. The ordinance shall
17 include guidelines establishing the parameters governing the
18 expenditure of money from the fund, which shall be used
19 exclusively to remove advertisements and otherwise enforce the
20 provisions of the bill, and to administer the fund.

21 Additionally, a municipality shall report to the Division of
22 Consumer Affairs, in the Department of Law and Public Safety, for
23 further investigation by the division, any pattern or practice of
24 advertisements posted or otherwise displayed in violation of the
25 bill, which reasonably appears to violate the consumer fraud act,
26 P.L.1960, c.39 (C.56:8-1 et seq.). The division shall investigate any
27 report by a municipality to the division.

28 Recently, particularly in urban areas, there is a growing
29 proliferation of advertising on properties, which often appear to be
30 abandoned or vacant. The number of these empty properties will
31 continue to grow, as many are associated with increasing
32 foreclosure actions or abandonment due to the inability of property
33 owners to make their mortgage payments, particularly for property
34 owners with subprime mortgage products. This bill, in part, intends
35 to prevent advertisers from taking advantage of these properties, by
36 requiring prior written permission of the owner to place any
37 advertisements.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 124

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 7, 2012

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 124.

As amended by the committee, this bill prohibits any person from posting or otherwise displaying any advertisement on real property located within a municipality, or any building, pole, post or other structure on the property, without the prior written permission of the owner of record for the property, or the building or other structure thereon. It provides an exception for any person posting or otherwise displaying a temporary advertisement containing information and directional indicators inviting the public to purchase or lease real property at a real estate open house or similar event for that property.

The bill permits the governing body of every municipality to adopt ordinances to enforce the bill's provisions. These ordinances shall not overstep the jurisdiction of the Department of Transportation regarding billboards and outdoor advertising pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires any ordinance so adopted to be consistent with the purposes of that act. In the event of any conflict between an adopted ordinance and the act, the provisions of the act shall prevail.

The municipal ordinances, if adopted, must include procedures for reporting violations and shall also include penalty provisions in accordance with R.S.40:49-5, which penalties include: imprisonment for any term not exceeding 90 days; a fine not exceeding \$2,000; or a period of community service not exceeding 90 days.

Under the amended bill, a municipality shall have the power to remove or cause to be removed any advertisement posted or otherwise displayed without prior permission. The procedure for removal shall be set forth in any ordinance so adopted. If a municipality removes, or causes to be removed, an advertisement, the municipality may present the person who posted or otherwise displayed the removed advertisement, or the business advertised in the removed advertisement, an itemization of the costs incurred by the municipality for reimbursement. If the person or business does not provide reimbursement within 30 days of receipt of the municipal itemization,

the municipality may enforce the payment of these costs by instituting legal action for their collection.

The money collected by the municipality for advertisement removal shall be credited, along with any other funds made available, to a municipal advertisement removal fund, which the municipality shall establish by ordinance. The ordinance shall include guidelines establishing the parameters governing the expenditure of money from the fund, which shall be used exclusively to remove advertisements and otherwise enforce the provisions of this section, and to administer the fund.

Additionally, a municipality may report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of the bill, which reasonably appears to violate the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The division shall investigate any report by a municipality to the division, as may be warranted.

Recently, particularly in urban areas, there is a growing proliferation of advertising on properties, which often appear to be abandoned or vacant. The number of these empty properties will continue to grow, as many are associated with increasing foreclosure actions or abandonment due to the inability of property owners to make their mortgage payments, particularly for property owners with subprime mortgage products. This bill, in part, intends to prevent advertisers from taking advantage of these properties, by requiring prior written permission of the owner to place any advertisements.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

Committee Amendments

The committee amended the bill to make permissive the provisions of the bill that required municipalities to adopt ordinances to enforce the bill's requirement that a person shall not post or otherwise display any temporary commercial or business advertisement on any real property located within a municipality, or any building, pole, post or other structure on the property, without the prior written permission of the owner of record for the property, or the building or other structure thereon. The amendments also provide that a municipality would not be required to, but would have the power to, remove or cause to be removed any advertisement posted or displayed in violation of the bill.

The amendments also give the municipal court jurisdiction over any collection action under the bill; and permit, instead of requiring a municipality to report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of the bill subsection a. of this section, which

reasonably appears to violate the provisions of P.L.1960, c.39 (C.56:8-1 et seq.). Any report by a municipality to the division under this subsection shall be investigated by the division, as may be warranted.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 124

STATE OF NEW JERSEY

DATED: JUNE 24, 2013

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 124 (1R).

The bill prohibits any person from posting or otherwise displaying any advertisement on real property located within a municipality, or any building, pole, post or other structure on the property, without the prior written permission of the owner of record for the property, or the building or other structure thereon. It provides an exception for any person posting or otherwise displaying a temporary advertisement containing information and directional indicators inviting the public to purchase or lease real property at a real estate open house or similar event for that property.

The bill permits the governing body of every municipality to adopt ordinances to enforce the bill's provisions. These ordinances shall not overstep the jurisdiction of the Department of Transportation regarding billboards and outdoor advertising pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires any ordinance so adopted to be consistent with the purposes of that act. In the event of any conflict between an adopted ordinance and the act, the provisions of the act shall prevail.

The municipal ordinances, if adopted, must include procedures for reporting violations and shall also include penalty provisions in accordance with R.S.40:49-5, which penalties include: imprisonment for any term not exceeding 90 days; a fine not exceeding \$2,000; or a period of community service not exceeding 90 days.

Under the bill, a municipality shall have the power to remove or cause to be removed any advertisement posted or otherwise displayed without prior permission. The procedure for removal shall be set forth in any ordinance so adopted. If a municipality removes, or causes to be removed, an advertisement, the municipality may present the person who posted or otherwise displayed the removed advertisement, or the business advertised in the removed advertisement, an itemization of the costs incurred by the municipality for reimbursement. If the person or business does not provide reimbursement within 30 days of receipt of the municipal itemization,

the municipality may enforce the payment of these costs by instituting legal action for their collection.

The money collected by the municipality for advertisement removal shall be credited, along with any other funds made available, to a municipal advertisement removal fund, which the municipality shall establish by ordinance. The ordinance shall include guidelines establishing the parameters governing the expenditure of money from the fund, which shall be used exclusively to remove advertisements and otherwise enforce the provisions of this section, and to administer the fund.

Additionally, a municipality may report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of the bill, which reasonably appears to violate the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The division shall investigate any report by a municipality to the division, as may be warranted.

Recently, particularly in urban areas, there is a growing proliferation of advertising on properties, which often appear to be abandoned or vacant. The number of these empty properties will continue to grow, as many are associated with increasing foreclosure actions or abandonment due to the inability of property owners to make their mortgage payments, particularly for property owners with subprime mortgage products. This bill, in part, intends to prevent advertisers from taking advantage of these properties, by requiring prior written permission of the owner to place any advertisements.

FISCAL IMPACT:

The bill would have an indeterminate impact on State and municipal finances. Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their ordinances but they may be reimbursed for these costs by the person or business that posted or displayed the advertisement in violation of the ordinance. Municipalities may also collect fines levied against ordinance violators. It is not clear whether the State will incur any additional costs related to the investigation of repeated ordinance violations, although the costs of proceedings brought under the consumer fraud act are recoverable by the Attorney General. The Office of Legislative Services (OLS) notes that this bill is permissive, and does not require any municipality to adopt an ordinance to enforce the prohibition of certain advertising on real property and related structures without the prior permission of the owner.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 124

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: JUNE 27, 2013

SUMMARY

- Synopsis:** Prohibits certain advertising on real property
- Type of Impact:** Indeterminate potential impact on State costs and municipal finances.
- Agencies Affected:** Department of Law and Public Safety (Division of Consumer Affairs) and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate potential impact – See comments below		
Local Finances	Indeterminate potential impact – See comments below		

- The enactment of Senate Bill No. 124 (1R) would have an indeterminate impact on State and municipal finances.
- Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their ordinances but they may be reimbursed for these costs by the person of business who posted or displayed the advertisement in violation of the ordinance.
- It is not clear whether the State will incur any additional costs related to investigation of repeated ordinance violations, although the costs of proceedings brought under the consumer fraud act are recoverable by the Attorney General.

BILL DESCRIPTION

Senate Bill No. 124 (1R) of 2012 prohibits any person from posting or otherwise displaying any advertisement on real property located within a municipality, or any building, pole, post or other structure on the property, without the prior written permission of the owner of record for

the property, or the building or structure thereon. It provides an exception for any person posting or otherwise displaying a temporary advertisement containing information and directional indicators inviting the public to purchase or lease real estate property at an open house or similar event for that property.

The bill permits the governing body of a municipality to adopt an ordinance to enforce the bill's provisions. These ordinances must include procedures for reporting violations and shall also include penalty provisions in accordance with R.S.40:49-5, which penalties include: imprisonment for any term not exceed 90 days; a fine not exceeding \$2,000l or a period of community service not exceeding 90 days. The municipal ordinance must not overstep the jurisdiction of the Department of Transportation regarding billboards and outdoor advertising pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.). In the event of any conflict between an adopted ordinance and the "Roadside Sign Control and Outdoor Advertising Act," the provisions of the act shall prevail.

The bill authorizes a municipality to remove or cause to be removed any advertisement posted or otherwise displayed without prior permission. The municipality may present the person who posted or otherwise displayed the removed advertisement, or the business advertised in the removed advertisement, an itemization of the costs incurred by the municipality for reimbursement. If the person or business does not provide reimbursement within 30 days of receipt of the municipal itemization, the municipality may enforce the payment of these costs by instituting legal action for their collection. Any moneys collected by the municipality for advertisement removal shall be credited, along with any other funds made available, to a municipal advertisement removal fund. A municipality must adopt an ordinance establishing the fund and parameters governing the expenditure of moneys from the fund. Moneys credited to the fund shall be used exclusively to remove advertisements, enforce the provisions of the ordinance, and administer the fund.

Finally, a municipality may report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of the bill, which reasonably appears to violate the consumer fraud act, P.L.1960, c.39 (56:8-1 et seq.). The division shall investigate any report by a municipality to the division, as may be warranted. Pursuant to section 11 of P.L.1960, c.39 (C.56:8-11), the Attorney General is entitled to recover the costs of actions and proceedings brought under the consumer fraud act, and those recovered costs can be used for the general purposes of the State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The enactment of Senate Bill No. 124 (1R) would have an indeterminate impact on State and municipal finances. This bill is permissive and does not require any municipality to adopt an ordinance to enforce the prohibition certain advertising on real property and related structures without the prior permission of the owner. Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their enforcement ordinances, but they may be reimbursed for these costs by the person of business who posted or displayed the

advertisement in violation of the ordinance. The Office of Legislative Services notes that any reimbursement paid to the municipality must be dedicated for advertisement removal and enforcement of the ordinance. Municipalities may also collect fines levied against ordinance violators. These revenues would be deposited in the municipality's current fund and used for general municipal purposes. Finally, it is not clear whether the State will incur any additional costs related to investigation of repeated ordinance violations, although costs related to the prosecution of these violations under the consumer fraud act are recoverable under N.J.S.A.56:8-11.

Section: Local Government
Analyst: Scott A. Brodsky
Senior Fiscal Analyst
Approved: David J. Rosen
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.).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 124

STATE OF NEW JERSEY

DATED: JANUARY 9, 2014

The Assembly Budget Committee reports favorably Senate Bill No. 124 (1R).

The bill prohibits any person from posting or otherwise displaying any advertisement on real property located within a municipality, or any building, pole, post or other structure on the property, without the prior written permission of the owner of record for the property, or the building or other structure thereon. The bill provides an exception for any person posting or otherwise displaying a temporary advertisement containing information and directional indicators inviting the public to purchase or lease real property at a real estate open house or similar event for that property.

The bill permits the governing body of every municipality to adopt ordinances to enforce the bill's provisions. The bill provides these ordinances must not overstep the jurisdiction of the Department of Transportation regarding billboards and outdoor advertising pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires any ordinance so adopted to be consistent with the purposes of that act. If there is a conflict between an adopted ordinance and the act, the bill provides that the act will prevail.

The bill requires municipal ordinances, if adopted, to include procedures for reporting violations and to also include penalty provisions in accordance with R.S.40:49-5, which penalties include: imprisonment for any term not exceeding 90 days; a fine not exceeding \$2,000; or a period of community service not exceeding 90 days.

Under the bill, a municipality will have the power to remove or cause to be removed any advertisement posted or otherwise displayed without prior permission. The bill requires the procedure for removal to be set forth in any ordinance so adopted. If a municipality removes, or causes to be removed, an advertisement, the bill provides that the municipality may present the person who posted or otherwise displayed the removed advertisement, or the business advertised in the removed advertisement, an itemization of the costs incurred by the municipality for reimbursement. If the person or business does not

provide reimbursement within 30 days of receipt of the municipal itemization, the bill permits the municipality to enforce the payment of these costs by instituting legal action for their collection.

The bill requires the money collected by the municipality for advertisement removal to be credited, along with any other funds made available, to a municipal advertisement removal fund established by ordinance. The bill requires the ordinance to include guidelines establishing the parameters governing the expenditure of money from the fund, which must be used exclusively to remove advertisements and otherwise enforce the provisions of this section, and to administer the fund.

The bill permits a municipality to report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of the bill, which reasonably appears to violate the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The bill requires the division to investigate any report by a municipality to the division, as may be warranted.

The bill takes effect on the 60th day following enactment.

As reported, this bill is identical to Assembly Bill No. 4593, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the bill to have an indeterminate impact on State and municipal finances. Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their ordinances but they may be reimbursed for these costs by the person or business that posted or displayed the advertisement in violation of the ordinance. Municipalities may also collect fines levied against ordinance violators. It is not clear whether the State will incur any additional costs related to the investigation of repeated ordinance violations, although the costs of proceedings brought under the consumer fraud act are recoverable by the Attorney General.

The OLS notes that this bill is permissive, and does not require any municipality to adopt an ordinance to enforce the prohibition of certain advertising on real property and related structures without the prior permission of the owner.

ASSEMBLY, No. 4593

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JANUARY 9, 2014

Sponsored by:

Assemblywoman **SHEILA Y. OLIVER**

District 34 (Essex and Passaic)

Assemblyman **BENJIE E. WIMBERLY**

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman **McKeon**

SYNOPSIS

Prohibits certain advertising on real property and related structures without prior permission of owner.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2014)

1 AN ACT concerning certain advertisements on real property and
2 supplementing chapter 48 of Title 40 of the Revised Statutes.

3

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

6

7 1. a. A person shall not post or otherwise display any
8 temporary commercial or business advertisement, to induce directly
9 or indirectly any person to enter into any obligation or acquire title
10 or interest in any property, object, ware, good, commodity, or
11 service, on any real property located within a municipality, or any
12 building, pole, post or other structure on the property, without the
13 prior written permission of the owner of record for the property, or
14 the building or other structure thereon. This subsection shall not
15 apply to a person posting or otherwise displaying a temporary
16 advertisement containing information and directional indicators
17 inviting the public to purchase or lease real property at a real estate
18 open house or similar event for that property.

19 b. The governing body of every municipality may make,
20 amend, and repeal ordinances to enforce the provisions of
21 subsection a. of this section. An ordinance so adopted shall set
22 forth procedures for reporting violations and shall also prescribe
23 penalties for violations in accordance with R.S.40:49-5. Ordinances
24 adopted pursuant to this section shall be consistent with the
25 purposes of P.L.1991, c.413 (C.27:5-5 et seq.) to the extent
26 necessary to allow the State to carry out the policy as declared
27 therein. In the event of conflict between an ordinance adopted
28 pursuant to this section and the provisions of P.L.1991, c.413
29 (C.27:5-5 et seq.), or the regulations promulgated pursuant thereto,
30 section 22 of P.L.1991, c.413 (C.27:5-26) shall govern.

31 c. (1) The municipality shall have the power to remove or
32 cause to be removed any advertisement posted or displayed in
33 violation of subsection a. of this section. The procedure for
34 removal shall be set forth in any ordinance so adopted.

35 (2) (a) Whenever the municipality removes, or causes to be
36 removed, an advertisement, the municipality may present the person
37 who posted or otherwise displayed the removed advertisement, or
38 the business advertised in the removed advertisement, by certified
39 and regular mail, a detailed itemization of the costs of removal
40 incurred by the municipality, requiring reimbursement by that
41 person or business of the removal costs.

42 (b) If the person or business does not provide reimbursement
43 within 30 days of receipt of the municipal itemization, the
44 municipality may enforce the payment of these costs, together with
45 interest and reasonable collection costs, by instituting an action at
46 law for the collection thereof. The Superior Court, or the municipal
47 court, shall have jurisdiction of any collection action.

1 d. The money collected by the municipality for advertisement
2 removal shall be credited, along with any other funds made
3 available, to a municipal advertisement removal fund, which the
4 municipality shall establish by ordinance. The ordinance shall
5 include guidelines establishing the parameters governing the
6 expenditure of money from the fund, which shall be used
7 exclusively to remove advertisements and otherwise enforce the
8 provisions of this section, and to administer the fund.

9 e. The municipality may report to the Division of Consumer
10 Affairs, in the Department of Law and Public Safety, for further
11 investigation by the division, any pattern or practice of
12 advertisements posted or otherwise displayed in violation of
13 subsection a. of this section, which reasonably appears to violate the
14 provisions of P.L.1960, c.39 (C.56:8-1 et seq.). Any report by a
15 municipality to the division under this subsection shall be
16 investigated by the division as may be warranted.

17

18 2. This act shall take effect on the 60th day following
19 enactment.

20

21

22

STATEMENT

23

24 This bill prohibits any person from posting or otherwise
25 displaying any advertisement on real property located within a
26 municipality, or any building, pole, post or other structure on the
27 property, without the prior written permission of the owner of
28 record for the property, or the building or other structure thereon. It
29 provides an exception for any person posting or otherwise
30 displaying a temporary advertisement containing information and
31 directional indicators inviting the public to purchase or lease real
32 property at a real estate open house or similar event for that
33 property.

34 The bill permits the governing body of every municipality to
35 adopt ordinances to enforce the bill's provisions. These ordinances
36 shall not overstep the jurisdiction of the Department of
37 Transportation regarding billboards and outdoor advertising
38 pursuant to the "Roadside Sign Control and Outdoor Advertising
39 Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires any
40 ordinance so adopted to be consistent with the purposes of that act.
41 In the event of any conflict between an adopted ordinance and the
42 act, the provisions of the act shall prevail.

43 The municipal ordinances, if adopted, must include procedures
44 for reporting violations and shall also include penalty provisions in
45 accordance with R.S.40:49-5, which penalties include:
46 imprisonment for any term not exceeding 90 days; a fine not
47 exceeding \$2,000; or a period of community service not exceeding
48 90 days.

1 Under the bill, a municipality shall have the power to remove or
2 cause to be removed any advertisement posted or otherwise
3 displayed without prior permission. The procedure for removal
4 shall be set forth in any ordinance so adopted. If a municipality
5 removes, or causes to be removed, an advertisement, the
6 municipality may present the person who posted or otherwise
7 displayed the removed advertisement, or the business advertised in
8 the removed advertisement, an itemization of the costs incurred by
9 the municipality for reimbursement. If the person or business does
10 not provide reimbursement within 30 days of receipt of the
11 municipal itemization, the municipality may enforce the payment of
12 these costs by instituting legal action for their collection.

13 The money collected by the municipality for advertisement
14 removal shall be credited, along with any other funds made
15 available, to a municipal advertisement removal fund, which the
16 municipality shall establish by ordinance. The ordinance shall
17 include guidelines establishing the parameters governing the
18 expenditure of money from the fund, which shall be used
19 exclusively to remove advertisements and otherwise enforce the
20 provisions of this section, and to administer the fund.

21 Additionally, a municipality may report to the Division of
22 Consumer Affairs, in the Department of Law and Public Safety, for
23 further investigation by the division, any pattern or practice of
24 advertisements posted or otherwise displayed in violation of the
25 bill, which reasonably appears to violate the consumer fraud act,
26 P.L.1960, c.39 (C.56:8-1 et seq.). The division shall investigate any
27 report by a municipality to the division, as may be warranted.

28 Recently, particularly in urban areas, there is a growing
29 proliferation of advertising on properties, which often appear to be
30 abandoned or vacant. The number of these empty properties will
31 continue to grow, as many are associated with increasing
32 foreclosure actions or abandonment due to the inability of property
33 owners to make their mortgage payments, particularly for property
34 owners with subprime mortgage products. This bill, in part, intends
35 to prevent advertisers from taking advantage of these properties, by
36 requiring prior written permission of the owner to place any
37 advertisements.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4593

STATE OF NEW JERSEY

DATED: JANUARY 9, 2014

The Assembly Budget Committee reports favorably Assembly Bill No. 4593.

This bill prohibits any person from posting or otherwise displaying any advertisement on real property located within a municipality, or any building, pole, post or other structure on the property, without the prior written permission of the owner of record for the property, or the building or other structure thereon. The bill provides an exception for any person posting or otherwise displaying a temporary advertisement containing information and directional indicators inviting the public to purchase or lease real property at a real estate open house or similar event for that property.

The bill permits the governing body of every municipality to adopt ordinances to enforce the bill's provisions. The bill provides these ordinances must not overstep the jurisdiction of the Department of Transportation regarding billboards and outdoor advertising pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires any ordinance so adopted to be consistent with the purposes of that act. If there is a conflict between an adopted ordinance and the act, the bill provides that the act will prevail.

The bill requires municipal ordinances, if adopted, to include procedures for reporting violations and to also include penalty provisions in accordance with R.S.40:49-5, which penalties include: imprisonment for any term not exceeding 90 days; a fine not exceeding \$2,000; or a period of community service not exceeding 90 days.

Under the bill, a municipality will have the power to remove or cause to be removed any advertisement posted or otherwise displayed without prior permission. The bill requires the procedure for removal to be set forth in any ordinance so adopted. If a municipality removes, or causes to be removed, an advertisement, the bill provides that the municipality may present the person who posted or otherwise displayed the removed advertisement, or the business advertised in the removed advertisement, an itemization of the costs incurred by the municipality for reimbursement. If the person or business does not provide reimbursement within 30 days of receipt of the municipal

itemization, the bill permits the municipality to enforce the payment of these costs by instituting legal action for their collection.

The bill requires the money collected by the municipality for advertisement removal to be credited, along with any other funds made available, to a municipal advertisement removal fund established by ordinance. The bill requires the ordinance to include guidelines establishing the parameters governing the expenditure of money from the fund, which must be used exclusively to remove advertisements and otherwise enforce the provisions of this section, and to administer the fund.

The bill permits a municipality to report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of the bill, which reasonably appears to violate the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The bill requires the division to investigate any report by a municipality to the division, as may be warranted.

The bill takes effect on the 60th day following enactment.

As reported, this bill is identical to Senate Bill No. 124 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the bill to have an indeterminate impact on State and municipal finances. Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their ordinances but they may be reimbursed for these costs by the person or business that posted or displayed the advertisement in violation of the ordinance. Municipalities may also collect fines levied against ordinance violators. It is not clear whether the State will incur any additional costs related to the investigation of repeated ordinance violations, although the costs of proceedings brought under the consumer fraud act are recoverable by the Attorney General.

The OLS notes that this bill is permissive, and does not require any municipality to adopt an ordinance to enforce the prohibition of certain advertising on real property and related structures without the prior permission of the owner.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4593
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: JANUARY 16, 2014

SUMMARY

- Synopsis:** Prohibits certain advertising on real property and related structures without prior permission of owner.
- Type of Impact:** Indeterminate potential impact on State costs and municipal finances.
- Agencies Affected:** Department of Law and Public Safety (Division of Consumer Affairs) and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate Potential Impact – See comments below		
Local Finances	Indeterminate Potential Impact – See comments below		

- The enactment of Assembly Bill No. 4593 would have an indeterminate impact on State and municipal finances.
- Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their ordinances, but they may be reimbursed for these costs by the person or business who posted or displayed the advertisement in violation of the ordinance.
- It is not clear whether the State will incur any additional costs related to the investigation of repeated ordinance violations, although the costs of proceedings brought under the consumer fraud act are recoverable by the Attorney General.

BILL DESCRIPTION

Assembly Bill No. 4593 of 2014 prohibits any person from posting or otherwise displaying any advertisement on real property located within a municipality, or any building, pole, post, or other structure on the property without the prior written permission of the owner of record for the property, or the building or other structure thereon. It provides an exception for any person posting or otherwise displaying a temporary advertisement containing information and

directional indicators inviting the public to purchase or lease real property at a real estate open house or similar event for a particular property.

The bill permits the governing body of a municipality to adopt ordinances to enforce the bill's provisions. These ordinance must include procedures for reporting violations and shall also include penalty provisions in accordance with R.S.40:49-5, which penalties include: imprisonment for any term not exceeding 90 days; a fine not exceeding \$2,000; or a period of community service not exceeding 90 days. The municipal ordinance must not overstep the jurisdiction of the Department of Transportation regarding billboards and outdoor advertising pursuant to the "Roadside Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), as the bill requires any ordinance so adopted to be consistent with the purposes of that act. In the event of any conflict between an adopted ordinance and the act, the provisions of the act shall prevail.

The bill authorizes a municipality to remove or cause to be removed any advertisement posted or otherwise displayed without prior permission. The municipality may present the person who posted or otherwise displayed the removed advertisement, or the business advertised in the removed advertisement, with an itemization of the costs incurred by the municipality for reimbursement. If the person or business does not provide reimbursement within 30 days of receipt of the municipal itemization, the municipality may enforce the payment of these costs by instituting legal action for their collection. Any moneys collected by the municipality for advertisement removal shall be credited, along with any other funds made available, to a municipal advertisement removal fund. A municipality must adopt an ordinance establishing the fund and parameters governing the expenditure of moneys from the fund. Moneys credited to the fund shall be used exclusively to remove advertisements, enforce the provisions of the ordinance, and administer the fund.

Finally, a municipality may report to the Division of Consumer Affairs, in the Department of Law and Public Safety, for further investigation by the division, any pattern or practice of advertisements posted or otherwise displayed in violation of an ordinance authorized by the bill, which reasonably appears to violate the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). The division shall investigate any report by a municipality to the division, as may be warranted. Pursuant to section 11 of P.L.1960, c.39 (C.56:8-11) the Attorney General is entitled to recover the costs of actions and proceedings brought under the consumer fraud act, and those recovered costs can be used for the general purposes of the State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The enactment of Assembly Bill No. 4593 would have an indeterminate impact on State and municipal finances. The bill is permissive and does not require any municipality to adopt an ordinance to enforce the prohibition of certain advertising on real property and related structures without the permission of the owner. Municipalities may incur additional costs associated with the removal of advertisements posted in violation of their enforcement ordinances, but they may be reimbursed for these costs by the person or business who posted or displayed the

advertisement in violation of the ordinance. The Office of Legislative Services notes that any reimbursement paid to the municipality must be dedicated for advertisement removal and enforcement of the ordinance. Municipalities may also collect fines levied against ordinance violators. These revenues would be deposited into the municipality's current fund and used for general municipal purposes. Finally, it is not clear whether the State will incur any additional costs related to the investigation of repeated ordinance violations, although costs related to the prosecution of these violations under the consumer fraud act are recoverable under N.J.S.A.56:8-11.

Section: Local Government

*Analyst: Scott A. Brodsky
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

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