

40:48-1 et al

LEGISLATIVE HISTORY CHECKLIST

(Buildings unfit for habitation -- expedite proceedings)

NJSA 40:48-1 et al.

LAWS OF 1979

CHAPTER 43

Bill No. S1009

Sponsor(s) Lipman and others

Date Introduced March 17, 1978

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage

Yes

XO Amendments during passage denoted by asterisks.

Date of Passage: Assembly January 25, 1979

Senate May 18, 1978

Date of approval March 21, 1979

Following statements are attached if available:

Sponsor statement	Yes	XX
Committee Statement: Assembly	Yes	No
Senate	Yes	XX
Fiscal Note	XXX	No
Veto message	XXX	No
Message on signing	XXX	No

Following were printed:

Reports	XXX	No
Hearings	XXX	No

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2/1/78

CHAPTER 43 LAWS OF N. J. 1979
APPROVED 3-21-79

[OFFICIAL COPY REPRINT]

SENATE, No. 1009

STATE OF NEW JERSEY

INTRODUCED MARCH 17, 1978

By Senators LIPMAN, MUSTO, GRAVES
and ERICHETTI

Referred to Committee on County and Municipal Government

AN ACT to amend "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," approved May 2, 1942 (P. L. 1942, c. 112) as said title was amended by P. L. 1956, c. 197, and amending R. S. 40:48-1.

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

1 1. R. S. 40:48-1 is amended to read as follows:

2 40:48-1. Ordinances; general purpose. The governing body of
3 every municipality may make, amend, repeal and enforce ordi-
4 nances to:

5 Finances and property. 1. Manage, regulate and control the
6 finances and property, real and personal, of the municipality;

7 Contracts and contractor's bonds. 2. Prescribe the form and
8 manner of execution and approval of all contracts to be executed
9 by the municipality and of all bonds to be given to it;

10 Officers and employees; duties, terms and salaries. 3. Prescribe
11 and define, except as otherwise provided by law, the duties and
12 terms of office or employment, of all officers and employees; and to
13 provide for the employment and compensation of such officials and
14 employees, in addition to those provided for by statute, as may be
15 deemed necessary for the efficient conduct of the affairs of the
16 municipality;

17 Fees. 4. Fix the fees of any officer or employee of the munic-
18 ipality for any service rendered in connection with his office or posi-
19 tion, for which no specific fee or compensation is provided. In the
20 case of salaried officers or employees, such fee shall be paid into the
21 municipal treasury;

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

22 Salaries instead of fees; disposition of fees. 5. Provide that any
23 officer or employee receiving compensation for his services, in
24 whole or in part by fees, whether paid by the municipality or other-
25 wise, shall be paid a salary to be fixed in the ordinance, and there-
26 after all fees received by such officer or employee shall be paid into
27 the municipal treasury;

28 Maintain order. 6. Prevent vice, drunkenness and immorality; to
29 preserve the public peace and order; to prevent and quell riots,
30 disturbances and disorderly assemblages;

31 Punish beggars; prevention of loitering. 7. Restrain and punish
32 drunkards, vagrants, mendicants and street beggars; to prevent
33 loitering, lounging or sleeping in the streets, parks or public places;

34 Auctions and noises. 8. Regulate the ringing of bells and the
35 crying of goods and other commodities for sale at auction or other-
36 wise, and to prevent disturbing noises;

37 Swimming; bathing costume. 9. Regulate or prohibit swimming
38 or bathing in the waters of, in, or bounding the municipality, and
39 to regulate or prohibit persons from appearing upon the public
40 streets, parks and places clad in bathing costumes or robes, or
41 costumes of a similar character;

42 Prohibit annoyance of persons or animals. 10. Regulate or pro-
43 hibit any practice tending to frighten animals, or to annoy or in-
44 jure persons in the public streets;

45 Animals; pounds; establishment and regulation. 11. Establish
46 and regulate one or more pounds, and to prohibit or regulate the
47 running at large of horses, cattle, dogs, swine, goats and other
48 animals, and to authorize their impounding and sale for the penalty
49 incurred, and the costs of impounding, keeping and sale; to regulate
50 or prohibit the keeping of cattle, goats or swins in any part of the
51 municipality; to authorize the destruction of dogs running at large
52 therein;

53 Hucksters. 12. Prescribe and regulate the place of vending or
54 exposing for sale articles of merchandise from vehicles;

55 Building regulations; wooden structures. 13. Regulate and con-
56 trol the construction, erection, alteration and repair of buildings
57 and structures of every kind within the municipality; and to pro-
58 hibit, within certain limits, the construction, erection or alteration
59 of buildings or structures of wood or other combustible material;

60 Inflammable materials; inspect docks and buildings. 14. Regu-
61 late the use, storage, sale and disposal of inflammable or combus-
62 tible materials, and to provide for the protection of life and
63 property from fire, explosions and other dangers; to provide for

64 inspections of buildings, docks, wharves, warehouses and other
65 places, and of goods and materials contained therein, to secure the
66 proper enforcement of such ordinance;

67 Dangerous structures; removal or destruction; procedure. 15.
68 Provide for the removal or destruction of any building, wall or
69 structure which is or may become dangerous to life or health, or
70 might tend to extend a conflagration; and to assess the cost thereof
71 as a municipal lien against the premises. The assessment shall be
72 made on notice by the assessment commissioners in the same
73 manner as improvement assessments are made.

74 Before any proceeding is taken pursuant to the provisions hereof,
75 the governing body of the municipality shall cause notice of the
76 contemplated removal or destruction of the building, wall or struc-
77 ture, to be given to the owner of the land affected thereby. The
78 notice shall contain a description of the property affected, suffi-
79 ciently definite in terms to identify it as well as a description of the
80 manner in which such removal or destruction is to be carried out,
81 and a notice that unless the building, wall or structure is removed or
82 destroyed within 30 days after the service of the notice, the munici-
83 pality will proceed with the removal or destruction or cause it to be
84 proceeded with pursuant to the authority of this section. The
85 notice may be served upon an owner resident in the municipality,
86 in person, or by leaving it at his usual place of residence with a
87 member of his family above the age of 14 years. If an owner shall
88 not reside in the municipality, notice may be served upon him per-
89 sonally or mailed to his last known post-office address, or it may
90 be served upon the occupant of the property or upon the agent of
91 the owner in charge thereof. If the owner of the property is un-
92 known or service cannot for any reason be made as above directed,
93 notice thereof shall be published at least once, not less than 30 days
94 before the proposed removal or destruction, in a newspaper
95 circulating in the municipality. There may be inserted in the
95A advertisement notice to the owners of several different parcels of
95B land. Notice to infant owners, or owner or owners of unsound
96 mind, shall be served upon their guardians. Where lands are held
97 in trust service shall be made upon the trustee. Where lands are
98 held by joint tenants, tenants in common or tenants by the entirety,
99 service upon one of the owners shall be sufficient and deemed and
100 taken as notice to all. Proof of service of such notices shall be filed
101 within 10 days thereafter with the officer having charge of the
102 record of tax liens in the municipality, but failure to file the same
103 shall not invalidate the proceedings if service has actually been
104 made as herein provided.

105 When any such removal or destruction shall have been under-
106 taken and completed by the municipality, an accurate account of the
107 cost and expense thereof shall be kept, and a true statement under
108 oath or affirmation, shall be filed by the officer of the municipality
109 in charge of the removal or destruction, with the clerk of the
110 governing body. The governing body shall examine the same and
111 if it is properly made, shall confirm it and file such report with the
112 clerk of the municipality who shall record it in a book to be kept
113 for that purpose]:

114 Chimneys and boilers. 16. Regulate the construction and setting
115 up of chimneys, furnaces, stoves, boilers, ovens and other contri-
116 vances in which fire is used;

117 Explosives. 17. Regulate, in conformity with the statutes of this
118 State, the manufacture, storage, sale, keeping or conveying of gun-
119 powder, nitroglycerine, dynamite and other explosives;

120 Firearms and fireworks. 18. Regulate and prohibit the sale and
121 use of guns, pistols, firearms, and fireworks of all descriptions;

122 Soft coal. 19. Regulate the use of soft coal in locomotives,
123 factories, power houses and other places;

124 Theatres, schools, churches and public places. 20. Regulate the
125 use of theatres, cinema houses, public halls, schools, churches, and
126 other places where numbers of people assemble, and the exits there-
127 from, so that escape therefrom may be easily and safely made in
128 case of fire or panic; and to regulate any machinery, scenery, lights,
129 wires and other apparatus, equipment or appliances used in all
130 places of public amusement;

131 Excavations. 21. Regulate excavations below the established
132 grade or curb line of any street, not greater than eight feet, which
133 the owner of any land may make, in the erection of any building
134 upon his own property; and to provide for the giving of notice, in
135 writing, of such intended excavation to any adjoining owner or
136 owners, and that they will be required to protect and care for their
137 several foundation walls that may be endangered by such excava-
138 tion; and to provide that in case of the neglect or refusal, for 10
139 days, of such adjoining owner or owners to take proper action to
140 secure and protect the foundations of any adjacent building or
141 other structure, that the party or parties giving such notice, or
142 their agents, contractors or employees, may enter into and upon
143 such adjoining property and do all necessary work to make such
144 foundations secure, and may recover the cost of such work and
145 labor in so protecting such adjacent property; and to make such
146 further and other provisions in relation to the proper conduct and
147 performance of said work as the governing body or board of the
148 municipality may deem necessary and proper;

149 Sample medicines. 22. Regulate and prohibit the distribution,
150 depositing or leaving on the public streets or highways, public
151 places or private property, or at any private place or places within
152 any such municipality, any medicine, medicinal preparation or
153 preparations represented to cure ailments or diseases of the body
154 or mind, or any samples thereof, or any advertisements or circulars
155 relating thereto, but no ordinance shall prohibit a delivery of any
156 such article to any person above the age of 12 years willing to
157 receive the same;

158 Boating. 23. Regulate the use of motor and other boats upon
159 waters within or bounding the municipality;

160 Fire escapes. 24. Provide for the erection of fire escapes on
161 buildings in the municipality, and to provide rules and regulations
162 concerning the construction and maintenance of the same, and for
163 the prevention of any obstruction thereof or thereon;

164 Care of injured employees. 25. Provide for the payment of
165 compensation and for medical attendance to any officer or employee
166 of the municipality injured in the performance of his duty;

167 Bulkheads and other structures. 26. Fix and determine the lines
168 of bulkheads or other works or structures to be erected, constructed
169 or maintained by the owners of lands facing upon any navigable
170 water in front of their lands, and in front of or along any highway
171 or public lands of said municipality, and to designate the materials
172 to be used, and the type, height and dimensions thereof;

173 Life guard. 27. Establish, maintain, regulate and control a life
174 guard upon any beach within or bordering on the municipality;

175 Appropriation for life-saving apparatus. 28. Appropriate
176 moneys to safeguard people from drowning within its borders, by
177 location of apparatus or conduct of educational work in harmony
178 with the plans of the United States volunteer life-saving corps in
179 this State;

180 Fences. 29. Regulate the size, height and dimensions of any
181 fences between the lands of adjoining owners, whether built or
182 erected as division or partition fences between such lands, and
183 whether the same exist or be erected entirely or only partly upon
184 the lands of any such adjoining owners, or along or immediately
185 adjacent to any division or partition line of such lands. To provide,
186 in such ordinance, the manner of securing, fastening or shoring
187 such fences. In the case of fences thereafter erected contrary to
188 the provisions thereof, the governing body may provide for a
189 penalty for the violation of such ordinance, and in the case of such
190 fence or fences erected or existing at the time of the passage of any

191 such ordinance, may provide therein for the removal, change or
192 alteration thereof, so as to make such fence or fences comply with
193 the provisions of any such ordinance;

194 Advertise municipality. 30. Appropriate funds for advertising
195 the advantages of the municipality.

1 2. Section 3 of P. L. 1942, c. 112 (C. 40:48-2.5) is amended to
2 read as follows:

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

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

11 (b) That whenever a petition is filed with the public officer by
12 a public authority or by at least five residents of the municipality
13 charging that any building is unfit for human habitation or occu-
14 pancy or use or whenever it appears to the public officer (on his
15 own motion) that any building is unfit for human habitation or
16 occupancy or use, the public officer shall, if his preliminary investi-
17 gation discloses a basis for such charges, issue and cause to be
18 served upon the owner of and parties in interest in such building
19 a complaint stating the charges in that respect and containing a
20 notice that a hearing will be held before the public officer (or his
21 designated agent) at a place therein fixed not less than [10] 7
22 days nor more than 30 days after the serving of said complaint;
23 that the owner and parties in interest shall be given the right to
24 file an answer to the complaint and to appear in person, or other-
25 wise, and give testimony at the place and time fixed in the com-
26 plaint; and that the rules of evidence prevailing in the courts shall
27 not be controlling in hearings before the public officer.

28 (c) That if, after such notice and hearing, the public officer de-
29 termines that the building under consideration is unfit for human
30 habitation or occupancy or use he shall state in writing his findings
31 of fact in support of such determination and shall issue and cause
32 to be served upon the owner thereof and parties in interest an
33 order:

34 (1) requiring the repair, alteration or improvement of the
35 said building to be made by the owner, within a reasonable
36 time, which time shall be set forth in the order or at the option
37 of the owner to vacate or have the said building vacated and
38 closed within the time set forth in the order; and

39 (2) if the building is in such a condition as to make it dan-
40 gerous to the health and safety of persons on or near the
41 premises, and the owner fails to repair, alter or improve the
42 said building within the time specified in the order, then the
43 owner shall be required to remove or demolish the said build-
44 ing within a reasonable time as specified in the said order of
45 removal.

46 (d) That, if the owner fails to comply with an order to repair,
47 alter or improve or, at the option of the owner, to vacate and close
48 the building, the public officer may cause such building to be re-
49 paired, altered or improved, or to be vacated and closed; that the
50 public officer may cause to be posted on the main entrance of any
51 building so closed, a placard with the following words: "This
52 building is unfit for human habitation or occupancy or use; the use
53 or occupation of this building is prohibited and unlawful."

54 (e) That, if the owner fails to comply with an order to remove
55 or demolish the building, the public officer may cause such building
56 to be removed or demolished or may contract for the removal or
57 demolition thereof after advertisement for, and receipt of, bids
58 therefor.

59 (f) That the amount of

60 (1) the cost of the filing of legal papers, expert witnesses'
61 fees, search fees and advertising charges, incurred in the course
62 of any proceeding taken under this act determined in favor
63 of the municipality, and

64 (2) such cost of such repairs, alterations or improvements,
65 or vacating and closing, or removal or demolition, if any,
66 or the amount of the balance thereof remaining after deduction
67 of the sum, if any, realized from the sale of materials derived from
68 such building or from any contract for removal or demolition
69 thereof, shall be a municipal lien against the real property upon
70 which such cost was incurred. If the building is removed or de-
71 molished by the public officer, he shall sell the materials of such
72 building. There shall be credited against the cost of the removal
73 or demolition thereof, *including the clearance and, if necessary,*
74 *leveling of the site*, the proceeds of any sale of such materials or
75 any sum derived from any contract for the removal or demolition
76 of the building. If there are no such credits or if the sum total of
77 such costs exceeds the total of such credits, a detailed statement
78 of the aforesaid costs and the amount so due shall be filed with
79 the municipal tax assessor or other custodian of the records of tax
80 liens and a copy thereof shall be forthwith forwarded to the owner

81 by registered mail. If the total of the credits exceed such costs,
 82 the balance remaining shall be deposited in the Superior Court
 83 by the public officer, shall be secured in such manner as may be
 84 directed by such court, and shall be disbursed according to the
 85 order or judgment of the court to the persons found to be entitled
 86 thereto by final order or judgment of such court]; provided, how-
 87 ever, that nothing in this section shall be construed to impair or
 88 limit in any way the power of the municipality to define and de-
 89 clare nuisances and to cause their removal or abatement, by sum-
 90 mary proceedings or otherwise]. Any owner or party in interest
 91 may, within [60] 30 days from the date of the filing of the lien
 92 certificate, proceed in a summary manner in the Superior Court
 93 to contest the reasonableness of the amount or the accuracy of the
 94 costs set forth in the municipal lien certificate.

95 *If an actual and immediate danger to life is posed by the threat-*
 96 *ened collapse of any fire damaged or other structurally unsafe*
 97 *building, the *[building official]* *public officer* may, after taking*
 97A *such measures as may be necessary to make such building tempo-*
 98 *rarily safe, seek a judgment in summary proceedings for the demo-*
 99 *lition thereof.*

100 *Nothing in this section shall be construed to impair or limit in*
 101 *any way the power of the municipality to define and declare*
 102 *nuisances and to cause their removal or abatement, by summary*
 103 *proceedings or otherwise, nor is anything in this act intended to*
 104 *limit the authority of the enforcing agency or construction official*
 105 *under the "State Uniform Construction Code Act," P. L. 1975,*
 106 *c. 217 (C. 52:27D-119 et seq.) or any rules or regulations adopted*
 107 *thereunder.*

1 3. Section 5 of P. L. 1942, c. 112 (C. 40:48-2.7) is amended to
 2 read as follows:

3 5. Complaints or orders issued by a public officer pursuant to
 4 an ordinance adopted under this act shall be served upon persons
 5 either personally or by registered mail, but if the whereabouts of
 6 such persons is unknown and the same cannot be ascertained by
 7 the public officer in the exercise of reasonable diligence, and the
 8 public officer shall make an affidavit to that effect, then the serving
 9 of such complaint or order upon such persons may be made by
 10 publishing the same once [each week for 2 successive weeks] in a
 11 newspaper printed and published in the municipality, or, in the
 12 absence of such newspaper, in one printed and published in the
 13 county and circulating in the municipality in which the buildings
 14 are located. A copy of such complaint or order shall be posted in
 15 a conspicuous place on premises affected by the complaint or order.

21. 16 A copy of such complaint or order shall be duly recorded or lodged
17 for record with the county recording officer of the county in which
18 the building is located.

1 4. Section 6 of P. L. 1942, c. 112 (C. 40:48-2.8) is amended to
2 read as follows:

3 6. Any person aggrieved by an order issued by a public officer
4 under this act may, within ~~【sixty】~~ 30 days after the posting and
5 service of such order, bring an action for injunctive relief to re-
6 strain the public officer from carrying out the provisions of the
7 order and for any other appropriate relief. The court may proceed
8 in the action in a summary manner or otherwise. The remedy
9 herein provided shall be exclusive, and no person affected by an
10 order of the public officer shall be entitled to recover any damages
11 for action taken pursuant thereto, or because of noncompliance by
12 any person with any order of the public officer.

1 5. This act shall take effect immediately.

SENATE, No. 1009

STATE OF NEW JERSEY

INTRODUCED MARCH 17, 1978

By Senators LIPMAN, MUSTO, GRAVES
and ERICHETTI

Referred to Committee on County and Municipal Government

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

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134 upon his own property; and to provide for the giving of notice, in
135 writing, of such intended excavation to any adjoining owner or
136 owners, and that they will be required to protect and care for their
137 several foundation walls that may be endangered by such excava-
138 tion; and to provide that in case of the neglect or refusal, for 10
139 days, of such adjoining owner or owners to take proper action to
140 secure and protect the foundations of any adjacent building or
141 other structure, that the party or parties giving such notice, or
142 their agents, contractors or employees, may enter into and upon
143 such adjoining property and do all necessary work to make such
144 foundations secure, and may recover the cost of such work and
145 labor in so protecting such adjacent property; and to make such
146 further and other provisions in relation to the proper conduct and
147 performance of said work as the governing body or board of the
148 municipality may deem necessary and proper;

149 Sample medicines. 22. Regulate and prohibit the distribution,
150 depositing or leaving on the public streets or highways, public
151 places or private property, or at any private place or places within
152 any such municipality, any medicine, medicinal preparation or
153 preparations represented to cure ailments or diseases of the body
154 or mind, or any samples thereof, or any advertisements or circulars
155 relating thereto, but no ordinance shall prohibit a delivery of any
156 such article to any person above the age of 12 years willing to
157 receive the same;

158 Boating. 23. Regulate the use of motor and other boats upon
159 waters within or bounding the municipality;

160 Fire escapes. 24. Provide for the erection of fire escapes on
161 buildings in the municipality, and to provide rules and regulations
162 concerning the construction and maintenance of the same, and for
163 the prevention of any obstruction thereof or thereon;

164 Care of injured employees. 25. Provide for the payment of
165 compensation and for medical attendance to any officer or employee
166 of the municipality injured in the performance of his duty;

167 Bulkheads and other structures. 26. Fix and determine the lines
168 of bulkheads or other works or structures to be erected, constructed
169 or maintained by the owners of lands facing upon any navigable
170 water in front of their lands, and in front of or along any highway
171 or public lands of said municipality, and to designate the materials
172 to be used, and the type, height and dimensions thereof;

173 Life guard. 27. Establish, maintain, regulate and control a life
174 guard upon any beach within or bordering on the municipality;

175 Appropriation for life-saving apparatus. 28. Appropriate
176 moneys to safeguard people from drowning within its borders, by
177 location of apparatus or conduct of educational work in harmony
178 with the plans of the United States volunteer life-saving corps in
179 this State;

180 Fences. 29. Regulate the size, height and dimensions of any
181 fences between the lands of adjoining owners, whether built or
182 erected as division or partition fences between such lands, and
183 whether the same exist or be erected entirely or only partly upon
184 the lands of any such adjoining owners, or along or immediately
185 adjacent to any division or partition line of such lands. To provide,
186 in such ordinance, the manner of securing, fastening or shoring
187 such fences. In the case of fences thereafter erected contrary to
188 the provisions thereof, the governing body may provide for a
189 penalty for the violation of such ordinance, and in the case of such
190 fence or fences erected or existing at the time of the passage of any

191 such ordinance, may provide therein for the removal, change or
192 alteration thereof, so as to make such fence or fences comply with
193 the provisions of any such ordinance;

194 Advertise municipality. 30. Appropriate funds for advertising
195 the advantages of the municipality.

1 2. Section 3 of P. L. 1942, c. 112 (C. 40:48-2.5) is amended to
2 read as follows:

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

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

11 (b) That whenever a petition is filed with the public officer by
12 a public authority or by at least five residents of the municipality
13 charging that any building is unfit for human habitation or occu-
14 pancy or use or whenever it appears to the public officer (on his
15 own motion) that any building is unfit for human habitation or
16 occupancy or use, the public officer shall, if his preliminary investi-
17 gation discloses a basis for such charges, issue and cause to be
18 served upon the owner of and parties in interest in such building
19 a complaint stating the charges in that respect and containing a
20 notice that a hearing will be held before the public officer (or his
21 designated agent) at a place therein fixed, not less than [10] 7
22 days nor more than 30 days after the serving of said complaint;
23 that the owner and parties in interest shall be given the right to
24 file an answer to the complaint and to appear in person, or other-
25 wise, and give testimony at the place and time fixed in the com-
26 plaint; and that the rules of evidence prevailing in the courts shall
27 not be controlling in hearings before the public officer.

28 (c) That if, after such notice and hearing, the public officer de-
29 termines that the building under consideration is unfit for human
30 habitation or occupancy or use he shall state in writing his findings
31 of fact in support of such determination and shall issue and cause
32 to be served upon the owner thereof and parties in interest an
33 order:

34 (1) requiring the repair, alteration or improvement of the
35 said building to be made by the owner, within a reasonable
36 time, which time shall be set forth in the order or at the option
37 of the owner to vacate or have the said building vacated and
38 closed within the time set forth in the order; and

39 (2) if the building is in such a condition as to make it dan-
40 gerous to the health and safety of persons on or near the
41 premises, and the owner fails to repair, alter or improve the
42 said building within the time specified in the order, then the
43 owner shall be required to remove or demolish the said build-
44 ing within a reasonable time as specified in the said order of
45 removal.

46 (d) That, if the owner fails to comply with an order to repair,
47 alter or improve or, at the option of the owner, to vacate and close
48 the building, the public officer may cause such building to be re-
49 paired, altered or improved, or to be vacated and closed; that the
50 public officer may cause to be posted on the main entrance of any
51 building so closed, a placard with the following words: "This
52 building is unfit for human habitation or occupancy or use; the use
53 or occupation of this building is prohibited and unlawful."

54 (e) That, if the owner fails to comply with an order to remove
55 or demolish the building, the public officer may cause such building
56 to be removed or demolished or may contract for the removal or
57 demolition thereof after advertisement for, and receipt of, bids
58 therefor.

59 (f) That the amount of

60 (1) the cost of the filing of legal papers, expert witnesses'
61 fees, search fees and advertising charges, incurred in the course
62 of any proceeding taken under this act determined in favor
63 of the municipality, and

64 (2) such cost of such repairs, alterations or improvements,
65 or vacating and closing, or removal or demolition, if any,
66 or the amount of the balance thereof remaining after deduction
67 of the sum, if any, realized from the sale of materials derived from
68 such building or from any contract for removal or demolition
69 thereof, shall be a municipal lien against the real property upon
70 which such cost was incurred. If the building is removed or de-
71 molished by the public officer, he shall sell the materials of such
72 building. There shall be credited against the cost of the removal
73 or demolition thereof, *including the clearance and, if necessary,*
74 *leveling of the site*, the proceeds of any sale of such materials or
75 any sum derived from any contract for the removal or demolition
76 of the building. If there are no such credits or if the sum total of
77 such costs exceeds the total of such credits, a detailed statement
78 of the aforesaid costs and the amount so due shall be filed with
79 the municipal tax assessor or other custodian of the records of tax
80 liens and a copy thereof shall be forthwith forwarded to the owner

81 by registered mail. If the total of the credits exceed such costs,
82 the balance remaining shall be deposited in the Superior Court
83 by the public officer, shall be secured in such manner as may be
84 directed by such court, and shall be disbursed according to the
85 order or judgment of the court to the persons found to be entitled
86 thereto by final order or judgment of such court; provided, how-
87 ever, that nothing in this section shall be construed to impair or
88 limit in any way the power of the municipality to define and de-
89 clare nuisances and to cause their removal or abatement, by sum-
90 mary proceedings or otherwise]. Any owner or party in interest
91 may, within [60] 30 days from the date of the filing of the lien
92 certificate, proceed in a summary manner in the Superior Court
93 to contest the reasonableness of the amount or the accuracy of the
94 costs set forth in the municipal lien certificate.

95 *If an actual and immediate danger to life is posed by the threat-*
96 *ened collapse of any fire damaged or other structurally unsafe*
97 *building, the building official may, after taking such measures as*
98 *may be necessary to make such building temporarily safe, seek a*
99 *judgment in summary proceedings for the demolition thereof.*

100 *Nothing in this section shall be construed to impair or limit in*
101 *any way the power of the municipality to define and declare*
102 *nuisances and to cause their removal or abatement, by summary*
103 *proceedings or otherwise, nor is anything in this act intended to*
104 *limit the authority of the enforcing agency or construction official*
105 *under the "State Uniform Construction Code Act," P. L. 1975,*
106 *c. 217 (C. 52:27D-119 et seq.) or any rules or regulations adopted*
107 *thereunder.*

1 3. Section 5 of P. L. 1942, c. 112 (C. 40:48-2.7) is amended to
2 read as follows:

3 5. Complaints or orders issued by a public officer pursuant to
4 an ordinance adopted under this act shall be served upon persons
5 either personally or by registered mail, but if the whereabouts of
6 such persons is unknown and the same cannot be ascertained by
7 the public officer in the exercise of reasonable diligence, and the
8 public officer shall make an affidavit to that effect, then the serving
9 of such complaint or order upon such persons may be made by
10 publishing the same once [each week for 2 successive weeks] in a
11 newspaper printed and published in the municipality, or, in the
12 absence of such newspaper, in one printed and published in the
13 county and circulating in the municipality in which the buildings
14 are located. A copy of such complaint or order shall be posted in
15 a conspicuous place on premises affected by the complaint or order.

16 A copy of such complaint or order shall be duly recorded or lodged
17 for record with the county recording officer of the county in which
18 the building is located.

1 4. Section 6 of P. L. 1942, c. 112 (C. 40:48-2.8) is amended to
2 read as follows:

3 6. Any person aggrieved by an order issued by a public officer
4 under this act may, within ~~【sixty】~~ 30 days after the posting and
5 service of such order, bring an action for injunctive relief to re-
6 strain the public officer from carrying out the provisions of the
7 order and for any other appropriate relief. The court may proceed
8 in the action in a summary manner or otherwise. The remedy
9 herein provided shall be exclusive, and no person affected by an
10 order of the public officer shall be entitled to recover any damages
11 for action taken pursuant thereto, or because of noncompliance by
12 any person with any order of the public officer.

1 5. This act shall take effect immediately.

STATEMENT

The purposes of this bill are threefold:

(1) To expedite and facilitate proceedings against buildings unfit for human habitation or use;

(2) In the case of unsafe structures presenting an imminent peril to human life, to authorize a building inspector to seek a summary judgment for the demolition thereof; and

(3) To clarify what may be included as part of the costs of demolition.

While the provisions of this bill, and the act herewith amended, are intended as the exclusive statutory scheme for handling unsafe or uninhabitable structures, they are not intended to impair or limit the authority of the enforcing agency or the construction official to remedy building violations pursuant to the State Uniform Construction Code Act.

Certain provisions in R. S. 40:48-1 have been deleted in that P. L. 1942, c. 112, herewith also amended, provides a comprehensive statutory scheme for dealing with municipal destruction or dangerous structures.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1009

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 4, 1978

Senate Bill No. 1009 would expedite and facilitate municipal proceedings against buildings unfit for human habitation by:

1. Reducing from 10 to 7 days the time municipal officers must wait before holding a hearing on a complaint that a building is unsafe;

2. Reducing from 60 to 30 days the time within which an owner, from the date of the filing of a municipal lien certificate for demolition costs, has to proceed to contest the lien;

3. Reducing from 60 to 30 days the time within which an owner, from the posting of an order to repair, remove or demolish an unsafe building, has to seek injunctive relief against the execution of such order;

4. Reducing the publication requirement for orders to repair, remove or demolish unsafe buildings from "once each week for 2 successive weeks" to "once";

5. Authorizing the public officer to seek a summary judgment for demolition in cases where a fire damaged or otherwise unsafe building poses an actual and immediate danger to life;

6. Clarifying that the cost of removal or demolition of unsafe buildings which the municipality collects from the owner, shall include costs of clearance and site-leveling, if such is necessary; and,

7. Removing from the statutes certain outdated provisions of law concerning municipal ordinances relating to dangerous structures in order to avoid any confusion or conflict in relevant law.

The committee has previously released Senate Bill No. 434 which provides that a municipality may collect demolition costs for fire damaged or unsafe structures as a personal obligation of the owner. This bill is intended by the sponsor as a companion measure.

The committee amendments are purely technical in nature, and are designed to conform the amendatory language of the bill to the definitions contained in section 2 of P. L. 1942, c. 112 (C. 40:48-2.4).

SENATE COMMITTEE AMENDMENT TO
SENATE, No. 1009

STATE OF NEW JERSEY

ADOPTED MAY 4, 1978

Amend page 8, section 2, line 97, omit "building official", insert
"public officer".

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MARCH 21, 1979

PAT SWEENEY

Governor Brendan Byrne today signed the following bills in a public ceremony in his office :

S-678, sponsored by Senator Wynona M. Lipman (D-Essex), requires a program of sexual assault prevention in all public schools.

This bill requires the Department of Education, in consultation with an advisory council provided for in the bill, to develop and establish guidelines for the teaching of sexual assault prevention techniques.

The Advisory Council, to be appointed by the Commissioner of Education in consultation with the Division on Women, shall consist of fifteen members, including representatives from legal, law enforcement, medical, educational and community-based service organizations who shall serve, without compensation, for two years.

The bill also provides that one year after the effective date of the act, local boards of education may establish sexual assault prevention programs in their schools in accordance with the guidelines developed by the department.

S-1009, also sponsored by Senator Lipman, expedites and facilitates proceedings against buildings unfit for human habitation or use.

This bill reduces from ten to seven days the time municipal officers must wait before holding a hearing on a complaint that a building is unsafe; reduces from sixty to thirty days the time within which an owner, from the date of the filing of a municipal lien certificate for demolition costs, has to proceed to contest the lien; reduces from sixty to thirty days the time within which an owner, from the posting of an order to repair, remove or demolish an unsafe building, has to seek injunctive relief against the execution of such order; and reduces the publication requirement for orders to repair, remove or demolish unsafe buildings from "once each week for two successive weeks" to "once."

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MARCH 21 1970

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The bill also authorizes the public officer to seek a summary judgement for demolition in cases where a fire damaged or otherwise unsafe building poses an actual and immediate danger to life. In addition, the bill removes from the statutes, certain outdated provisions concerning municipal ordinances relating to dangerous structures, in order to avoid any confusion or conflict.

S-1144, sponsored by Senator Eugene J. Bedell (D-Monmouth), known as "The Dental Auxiliaries Act," modernizes the laws governing licensed dental hygienists and their practice, and provides for the registration of qualified dental assistants.

This bill repeals N.J.S.A. 45:6-33 to N.J.S.A. 45:6-47, the statutes enacted in 1948, providing for the regulation of the practice of dental hygiene and the licensing of dental hygienists.

S-3001, sponsored by Senator Anthony E. Russo (D-Union), permits a board of education to lease all or part of a school building, not currently needed for school purposes, for nominal consideration and without advertisement for bids to the State, any political subdivision or school district or any board, body or commission of a municipality within the school district. Any lease in excess of five years must be approved by the Commissioner of Education.

The bill reflects the growing desire on the part of school districts experiencing enrollment declines to lease currently unneeded school property for extended terms to a greater variety of governmental entities.

A-1452, sponsored by Assemblyman Willie B. Brown (D-Essex), exempts from taxation to real and personal property of non-profit educational radio associations. Currently law exempts only education television facilities.

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