

54:5-59

LEGISLATIVE HISTORY CHECKLIST

(Tax sale certificates--provide for interest to be paid for redemption)

WJSA 54:5-59

LAWS OF 1979

CHAPTER 143

Bill No. A1817

Sponsor(s) Van Wagner and Flynn

Date Introduced Nov. 22, 1978

Committee: Assembly Taxation

Senate County and Municipal Govt.

Amended during passage xYes No

Date of Passage: Assembly Jan. 16, 1979

Senate April 26, 1979

Date of approval July 6, 1979

Following statements are attached if available:

Sponsor statement Yes xNo

Committee Statement: Assembly Yes xNo

Senate xYes No

Fiscal Note xYes No

Veto message xYes No

Message on signing xYes No

Following were printed:

Reports xYes No

Hearings xYes No

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9/1/78

ASSEMBLY, No. 1817

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 22, 1978

By Assemblymen VAN WAGNER and FLYNN

Referred to Committee on Taxation

AN ACT concerning unpaid taxes, assessments and other municipal charges on real property, and providing for the collection thereof by the creation and enforcement of liens thereon and amending R. S. 54:5-59.

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

1 1. R. S. 54:5-59 is amended to read as follows:

2 54:5-59. If the certificate of sale is held by the municipality, the
3 amount required for redemption shall include all subsequent
4 municipal liens with interest *thereon at the rate chargeable by the*
5 *municipality on delinquent taxes* and costs, but with the consent
6 of the governing body redemption may be made in installments.
7 The first installment shall include all past due taxes with interest
8 thereon, all costs required to be paid upon redemption, and all
9 installments of assessments past due, together with interest on
10 the assessments to the date of the payment of the installment.
11 The balance of the assessments shall be paid in such installments
12 and at such times as they would have been payable but for a
13 default in payment thereof, or for such sale for unpaid taxes or
14 assessments. After the payment of the first installment, the
15 municipality shall not assign the certificate or take any action to
16 cut off or foreclose the right of redemption so long as the install-
17 ments shall be paid when due and no default shall exist in the
18 payment of municipal liens accruing subsequent to the date of
19 the payment of the first installment. If redemption is made after
20 the claim of the municipality under any sale for the enforcement
21 of the taxes or other municipal liens or charges has been appor-
22 tioned, the amount required for redemption shall be the charge or
23 charges as apportioned to the subdivision being redeemed, with
24 interest and costs, including all subsequent municipal liens thereon
25 with interest from the date of such apportionment.

1 2. This act shall take effect immediately.

STATEMENT

The amendment is necessary for the following reasons: The present act provides that where the tax sale certificate is held by the municipality, interest shall be payable on subsequent municipal liens, but the rate is not stated. Under N. J. S. A. 54:5-60 where the certificate is not held by the municipality, the redemption amount is required to include the subsequent municipal liens paid by the certificate holder together with interest on the amount so paid "at the rate chargeable by the municipality." Under N. J. S. A. 54:5-34 it is provided that the municipality "shall have the same rights and remedies as other purchasers," which, it has been assumed, included the right to collect interest on the subsequent municipal liens "at the rate chargeable by the municipality" mentioned in N. J. S. A. 54:5-60.

It is believed that it was the legislative intent that the interest rate on the subsequent municipal liens would be the same whether the lien was held by a municipality or other.

In *Twp. of Long Branch v. Daniel B. Frazier Co.*, 112 N. J. Eq. 329 (E. & A. 1932), however, where the municipality instituted a foreclosure action on a tax sale certificate upon which there had accumulated substantial sums for subsequent municipal liens, it was claimed by the defendant and admitted by the municipality that the governing body had never adopted a resolution fixing the rate of interest which should be charged on delinquent taxes as required by P. L. 1918, c. 236, sec. 603 (now N. J. S. A. 54:4-67). The defendant contended that in view of such failure, no interest whatever was collectible. Such a course would, of course, have resulted in a substantial loss to the public. The court, after pointing out that the position taken by the defendant was untenable because the scheme of the General Tax Act and also the Tax Sale Revision Act, apparently was that interest be paid upon all of the taxes. To overcome the problem resulting from the lack of a resolution fixing the interest rate, the court held that the rate of interest on the subsequent municipal liens would be the same as the rate of redemption set forth in the certificate, a wholly illogical rationalization employed to meet the exigencies of that case. It should be corrected by the amendment above.

There are additional reasons for the amendment. N. J. S. A. 54:5-32, as amended by P. L. 1975, c. 210, sec. 1, provides that tax sale certificates shall be issued for redemption at a rate not in excess of 12%. If the *Long Beach* case were to be followed, the rate of interest on subsequent municipal liens chargeable to small

A 1817 (1979)

taxpayers (under \$1,000.00 of delinquency) as provided by N. J. S. A. 54:4-67, as amended by P. L. 1965, c. 105, sec. 1, P. L. 1970, c. 46, sec. 1, would be 12% rather than the 8% rate fixed, in direct conflict with the latter statute.

Also, since the *Long Beach* case, the Legislature has, under N. J. S. A. 54:5-30.1 (P. L. 1962, c. 161, sec. 1) provided that whenever the governing body of a municipality shall by resolution determine that a particular parcel or parcels of real estate, scheduled to be sold at public auction pursuant to the tax sale law, would be useful for a public purpose, it may authorize a municipal official to attend the auction and bid for such parcel or parcels at such sale on behalf of the municipality "in the same manner as any other bidder." The successful bidder is determined by the one who will purchase the property for redemption "at the lowest rate of redemption." N. J. S. A. 54:5-32. In many such cases, as is well known, the municipalities are required to bid the interest rate down to zero and in instances a substantial premium over and above the amount of the tax as provided by N. J. S. A. 54:5-33. If the reasoning in the *Long Beach* case is followed, it would mean that where the municipality bid in the certificate at zero rate of interest, it would, in the event of redemption, receive no interest whatever on the subsequent municipal liens, a statutory problem which manifestly must be corrected.

ASSEMBLY TAXATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1817

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1978

The Assembly Committee on Taxation released Assembly Bill No. 1817 favorably and without amendment as one of three bills which are designed to clear up technicalities in the tax sale law which hopefully, will lessen litigation through the clarification of that law.

The statement on the bill explains its effect in detail.

July 9, 1979

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A-1817, also sponsored by Assemblyman Richard Van Wagner, which amends the law to specify that if a tax sale certificate is held by a municipality, the amount of money required for redemption of that certificate will include all subsequent municipal liens together with the interest on the liens at the rate chargeable by the municipality on delinquent taxes.

Under prior law, municipalities could charge interest but the rate was not specified.

S-130, sponsored by Senator James Cafiero (R-Cape May), which amends N.J.S.A. 2A:68-7 governing the salaries paid to county jury commissioners to allow each commissioners' salary to be set within a specified range by the governing body of the county.

Under prior law, each jury commissioner (except a jury commissioner who was also a sheriff) was entitled to receive compensation on a semi-monthly basis as follows: \$900 annually in counties of the first class; \$750 annually in counties of the second class and counties of the third class having a population larger than 190,000; and \$500 in all other counties.

Under S-130, the salary ranges will be as follows: between \$900 and \$2,000 annually for counties having a population in excess of 600,000; between \$750 and \$1,750 annually in counties having populations between 400,000 and 600,000; between \$750 and \$1,500 annually in counties with populations between 190,000 and 400,000; between \$500 and \$1,250 annually in counties with populations between 100,000 and 190,000; and between \$500 and \$1,000 annually in all other counties.

S-1090, sponsored by Senator Barry Parker (R-Burlington), which repeals virtually all of Chapter 171 of Title 40 of the Revised Statutes.

The repealed sections of the Chapter are now obsolete. They relate to certain city officers and their appointment, duties, terms and in some instances tenure.

These sections have either been superceded by later laws and in some cases the forms of government to which they were applicable are no longer in use.