

54:5-78 and 54:5-79

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:5-78 and 54:5-79 (Property - Tax sale redemption -  
Eliminate 20 year limit)

LAWS OF 1979 CHAPTER 182

Bill No. A1816

Sponsor(s) Van Wagner and Flynn

Date Introduced Nov. 22, 1978

Committee: Assembly Taxation

Senate County & Municipal Government

Amended during passage  Yes  No

Date of Passage: Assembly Jan. 16, 1979

Senate April 26, 1979

Date of approval August 29, 1979

Following statements are attached if available:

Sponsor statement Yes  No

Committee Statement: Assembly Yes  No

Senate  No

Fiscal Note  No

Veto message  No

Message on signing  No

Following were printed:

Reports  No

Hearings  No

EJ

9/1/78

ASSEMBLY, No. 1816

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. 54:5-78 and R. S. 54:5-79.

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

1 1. R. S. 54:5-78 is amended to read as follows:

2 54:5-78. If there shall be no redemption within the term limited  
3 by the notice provided in *subsection a. of section 54:5-77* of this  
4 title, **[**or if there shall be no redemption within 20 years after the  
5 purchaser has entered into open possession, since continued, under  
6 the sale,**]** the right of redemption shall be barred.

1 2. R. S. 54:5-79 is amended to read as follows:

2 54:5-79. The title of a purchaser at a sale shall cease and de-  
3 termine and the certificate of sale shall be void at the expiration  
4 of 20 years from the date of the sale, unless the purchaser, his  
5 heirs or assigns shall, before the expiration of that term, **[**enter  
6 into actual possession of the land purchased, or**]** foreclose the  
7 right to redeem it by notice or by a civil action in the nature of a  
8 proceeding in equity and record the evidence thereof, as provided  
9 in this chapter; provided, however, that this act shall not apply  
10 to titles acquired by a municipality under certificates of tax sales  
11 purchased and held by it at tax sales conducted therein which titles  
12 so acquired and certificates of tax sales are hereby expressly ex-  
13 empted from said limitation period of 20 years.

1 3. This act shall take effect immediately.

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

## STATEMENT

There was a general revision of the "tax sale law" in 1918 (P. L. 1918, c. 237).

It contained several provisions with respect to possession of a property by a tax sale certificate holder which, at the time (1918) were consistent but which, since, by reason of amendment, cannot be reconciled with the rest of the act. They are R. S. 54:5-50 (P. L. 1918, c. 237, sec. 34), R. S. 54:5-78 (P. L. 1918, c. 237, sec. 47) and R. S. 54:5-79 (P. L. 1918, c. 237, sec. 51).

P. L. 1918, c. 237, sec. 34 (now R. S. 54:5-50) then provided that a tax lien holder could record his tax sale certificate "and thereupon shall be entitled to the immediate possession of the property sold and described in the certificate, and to all the rents and profits therefrom and after the date of record until redemption."

P. L. 1918, c. 237, sec. 47 (now R. S. 54:5-78) substantially unchanged to this date, provided, *inter alia*, that "if there shall be no redemption within 20 years after the purchaser has entered into open possession, since continued, under the sale, the sale, the right of redemption shall be barred."

P. L. 1918, c. 237, sec. 51 (now R. S. 54:5-79), substantially unchanged to this date, provided, *inter alia*, that the title of the tax sale purchaser "shall cease and determine and the certificate of sale shall be void at the expiration of 20 years from the date of sale, unless the purchaser, his heirs or assigns, shall before the expiration of that term enter into actual possession of the land purchased."

By an amendment to P. L. 1918, c. 237, sec. 34 (P. L. 1926, c. 81) the Legislature declared that the right to possession shall not apply where the property was "a dwelling house occupied by the delinquent owner," and by a further amendment thereto (P. L. 1929, c. 169) altogether eliminated the right to possession in the purchaser.

In 1941 the Legislature enacted P. L. 1941, c. 82 (N. J. S. 2A:111-23) which provided, *inter alia*, that any person who knowingly misrepresents "That the holder of a tax sale certificate, other than a municipal corporation, is entitled to possession of the premises sold, or to the rents, issues or profits therefrom—is guilty of a misdemeanor."

In *Brewer vs. Porch*, 52 N. J. 167 (1969), the Supreme Court, after reviewing the foregoing statutes, held in reference to R. S. 54:5-78, mentioned above, that the effect of P. L. 1929, c. 169,

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also referred to above, was to deny the holder of a tax sale certificate to terminate the right of redemption by the act of taking possession of the delinquent premises and continuing such possession for 20 years.

However, without a thorough briefing of the law, a reference to R. S. 54:5-78 and R. S. 54:5-79 would create the impression in the mind of one who reads the sections that a tax lien holder has the right to take possession, make title to the lands by such possession and by such possession defer indefinitely the 20-year statutory limitation placed on the viability of the certificate.

The purpose of the amendments is to make the statutory provisions conform to the actual state of the law on the subject.

It should be noted parenthetically that the amendments do not affect the right of a municipality to take possession under its tax sale certificate and apply the rents in satisfaction of the municipal liens as provided in N. J. S. A. section 1 of P. L. 1942, c. 54 (C. 54:5-53.1).

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ASSEMBLY TAXATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1816**

**STATE OF NEW JERSEY**

DATED: DECEMBER 11, 1978

The Assembly Committee on Taxation released Assembly Bill No. 1816 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.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

AUGUST 30, 1979

JOE SANTANGELO

Governor Brendan Byrne signed the following bills before departing for Illinois:

S-1295, sponsored by Senator Steven P. Perskie (D-Atlantic), which provides that no provision of the Penal Code shall supersede the provisions of the "Casino Control Act," prohibiting slot machines in the home for social use, while permitting the possession of antique slot machines.

S-3017, sponsored by Senator Anthony Scardino, Jr. (D-Bergen), which permits medical service corporations to experience rate groups of fifty or more members. Under the former law, any groups of hundred or more could be experience rated.

A-1816, sponsored by Assemblyman Richard Van Wagner (D-Monmouth), which eliminates the 20 year limit for redemption of tax sale property.

A-3356, sponsored by Assemblyman John Paul Doyle (D-Ocean), which extends the reporting date of the Commission to Study Teacher Preparation Programs from September 1, 1979 to January 1, 1980.

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