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LAW/RWH

P.L.2015, CHAPTER 16, *approved February 5, 2015*
Assembly, No. 3357

1 AN ACT authorizing persons to institute in rem tax foreclosure
2 actions against abandoned properties and amending R.S.54:5-86,
3 P.L.1948, c.96, and P.L.1955, c.278.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. R.S.54:5-86 is amended to read as follows:

9 54:5-86. a. When the municipality is the purchaser of a tax sale
10 certificate, the municipality, or its assignee or transferee, may, at
11 any time after the expiration of the term of six months from the date
12 of sale, institute an action to foreclose the right of redemption.
13 Except as provided in subsection a. of section 39 of P.L.1996, c.62
14 (C.55:19-58) or as provided in subsection b. of this section, for all
15 other persons that do not acquire a tax sale certificate from a
16 municipality, an action to foreclose the right of redemption may be
17 instituted at any time after the expiration of the term of two years
18 from the date of sale of the tax sale certificate. On instituting the
19 action the right to redeem shall exist and continue until barred by
20 the judgment of the Superior Court.

21 b. Any person holding a tax sale certificate on a property that
22 meets the definition of abandoned property as set forth in P.L.2003,
23 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
24 thereafter, may at any time file an action with the Superior Court in
25 the county wherein said municipality is situate, demanding that the
26 right of redemption on such property be barred, pursuant to the "tax
27 sale law," R.S.54:5-1 et seq. , or the In Rem Tax Foreclosure Act
28 (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall
29 include a certification by the public officer or the tax collector that
30 the property is abandoned, provided pursuant to subsection d. of
31 section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the
32 certificate holder has unsuccessfully sought such certification from
33 the public officer or tax collector, as the case may be, the certificate
34 holder may submit to the court evidence that the property is
35 abandoned, accompanied by a report and sworn statement by an
36 individual holding appropriate licensure or professional
37 qualifications, and shall provide a copy of those documents
38 submitted to the court to the public officer and the tax collector. On
39 the basis of this submission and any submission provided by the
40 public officer or tax collector, as the case may be, the court shall
41 determine whether the property meets the definition of abandoned
42 property.

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.

1 c. Any person holding a tax sale certificate on a property that
2 meets the definition of abandoned property as set forth in P.L.2003,
3 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
4 thereafter, may enter upon that property at any time after written
5 notice to the owner by certified mail return receipt requested in
6 order to make repairs, or abate, remove or correct any condition
7 harmful to the public health, safety and welfare, or any condition
8 that is materially reducing the value of the property.

9 d. Any sums incurred or advanced pursuant to subsection c. of
10 this section may be added to the unpaid balance due the holder of
11 the tax sale certificate at the statutory interest rate for subsequent
12 liens.

13 (cf: P.L.2005, c.118, s.11)

14
15 2. Section 2 of P.L.1948, c.96 (C.54:5-104.30) is amended to
16 read as follows:

17 2. When used in **【this act】** the In Rem Tax Foreclosure Act
18 (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.):

19 (a) "Municipality" shall mean every taxing district having the
20 power to assess and collect taxes.

21 (b) "Tax Collector" or "collector" shall mean the officer of the
22 municipality charged by law with the duty of collecting general
23 land taxes and the enforcement of tax liens.

24 (c) "County recording officer" shall mean the county officer in
25 whose office deeds are recorded for the county in which the land
26 affected by a proceeding under this act is located.

27 (d) "Land" or "lands" shall mean and include all real property.

28 (e) "Tax liens" shall mean all liens for general land taxes, and
29 for all other municipal taxes which are liens on land, together with
30 accrued interest, penalties and costs of collection thereon heretofore
31 existing or hereafter arising pursuant to any law.

32 (f) "Tax lien title" shall mean the title derived from a sale
33 according to law to satisfy any tax lien and evidenced by a tax sale
34 certificate.

35 (g) "Person" or "persons" shall mean an individual, a
36 corporation, an association, a municipal corporation, a body
37 corporate and politic, a governing body of a municipality, or a
38 governmental agency, and the singular may include the plural.

39 (h) "Abandoned property certificate holder" means a person
40 authorized to file an action pursuant to subsection b. of R.S.54:5-86.
41 (cf: P.L.1948, c.96, s.2)

42
43 3. Section 3 of P.L.1948, c.96 (C.54:5-104.31) is amended to
44 read as follows:

45 3. **【This act】** The In Rem Tax Foreclosure Act (1948),
46 P.L.1948, c.96 (C.54:5-104.29 et seq.) shall be liberally construed
47 as remedial legislation to encourage the barring of rights of
48 redemption, and is an alternate and additional remedy to any other

1 remedy provided by law, and shall apply to certificates of tax sales
2 heretofore or hereafter issued and held by a municipality or an
3 abandoned property certificate holder.

4 (cf: P.L.1948, c.96, s.3)

5

6 4. Section 4 of P.L.1948, c.96 (C.54:5-104.32) is amended to
7 read as follows:

8 4. Any municipality or abandoned property certificate holder
9 may proceed, In Rem, pursuant to the provisions of **【this act】** the In
10 Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et
11 seq.), similarly to bar rights of redemption, after said certificate has
12 been recorded in the office of the county recording officer. Neither
13 the foreclosure nor the recording of any such judgment or certificate
14 shall be construed to be a sale, transfer, or conveyance of title or
15 interest to the subject property under the provisions of the "Uniform
16 Fraudulent Transfer Act," R.S.25:2-20 et seq.

17 (cf: P.L.1994, c.32, s.15)

18

19 5. Section 6 of P.L.1948, c.96 (C.54:5-104.34) is amended to
20 read as follows:

21 6. No action may be instituted by a municipality under **【this**
22 **act】** the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96
23 (C.54:5-104.29 et seq.), on any tax sale certificate unless:

24 a. More than six months have expired from the date of the tax
25 sale out of which any such certificate arose; and

26 b. All or any portion of the general land taxes levied and
27 assessed against the land for 21 months next preceding the
28 commencement of the action, other than those subject to payment
29 by installments authorized by a resolution adopted pursuant to
30 R.S.54:5-65, remains unpaid.

31 Such action on a tax sale certificate may include the lien for
32 unpaid taxes, utility liens or any other municipal liens in
33 conjunction with or independent of one another.

34 (cf: P.L.1995, c.326, s.2)

35

36 6. Section 1 of P.L.1955, c.278 (C.54:5-104.72) is amended to
37 read as follows:

38 1. Where

39 (a) any proceeding pursuant to the provisions of the **【act】** In
40 Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et
41 seq.), to which **【this act】** P.L.1955, c.278 (C.54:5-104.72 et seq.) is
42 a supplement, or

43 (b) any other proceeding for the foreclosure of a right of
44 redemption where the right could then have been, but was not,
45 foreclosed in the manner provided by **【said act】** the In Rem Tax
46 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.) if
47 **【said】** that act had then been in effect,

1 has been heretofore or shall be hereafter instituted and judgment
2 obtained, and after the entry of such judgment it is discovered that
3 there were irregularities, or that there may have been irregularities,
4 in the conduct of the proceedings, the municipality **【which】** or
5 abandoned property certificate holder that instituted the
6 proceedings, may conduct a proceeding under the **【said act】** In Rem
7 Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.),
8 in the same manner and with the same effect as the first proceeding
9 would have had if it had been regularly prosecuted to judgment
10 under **【the said】** that act.
11 (cf: P.L.1961, c.112, s.1)

12
13 7. Section 2 of P.L.1955, c.278 (C.54:5-104.73) is amended to
14 read as follows:

15 2. Where a municipality or abandoned property certificate
16 holder has heretofore sold and transferred, or shall hereafter sell and
17 transfer, lands to a purchaser, title to which was acquired by the
18 municipality or abandoned property certificate holder under a tax
19 sale certificate and the foreclosure thereof, the said purchaser may
20 request the municipality or abandoned property certificate holder to
21 further foreclose or reforeclose such tax sale certificate under the
22 **【act】** In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-
23 104.29 et seq.), to which **【this act】** P.L.1955, c.278 (C.54:5-104.72
24 et seq.) is a supplement, for the purpose of correcting and
25 overcoming any irregularity in the prior foreclosure proceedings, or
26 to bar any outstanding right of redemption of the lands from the tax
27 sale which resulted in the said tax sale certificate, which right of
28 redemption could have been but was not barred by the said prior
29 foreclosure proceedings.
30 (cf: P.L.1955, c.278, s.2)

31
32 8. Section 3 of P.L.1955, c.278 (C.54:5-104.74) is amended to
33 read as follows:

34 3. Notwithstanding the prior sale of the property by the
35 municipality or abandoned property certificate holder, the
36 municipality or abandoned property certificate holder in any case,
37 as provided for in the preceding section, shall have the right to
38 further so foreclose or reforeclose the tax sale certificates for the
39 purpose of correcting or overcoming any irregularity in the prior
40 foreclosure proceeding, or to bar any outstanding right of
41 redemption of the lands from the tax sale which resulted in the said
42 tax sale certificate, which right was not barred by the said prior
43 foreclosure proceeding, but could have been, in the manner
44 provided by the **【act】** In Rem Tax Foreclosure Act (1948),
45 P.L.1948, c.96 (C.54:5-104.29 et seq.), to which **【this act】**
46 P.L.1955, c.278 (C.54:5-104.72 et seq.) is a supplement, if that act
47 was then in effect; provided, however, that in any such foreclosure

1 proceeding brought pursuant to section 2 of **[this act]** P.L.1955,
2 c.278 (C.54:5-104.73) the judgment of foreclosure therein obtained
3 shall not affect the right, title, and interest in said lands of the said
4 purchaser from the municipality or abandoned property certificate
5 holder or of any person deriving an interest therein from, through,
6 or by any action of, the said purchaser, and the said judgment shall
7 bar such outstanding interests as are foreclosed for the benefit of the
8 said purchaser and the governing body of the municipality may by
9 resolution or abandoned property certificate holder may as
10 otherwise provided by law, as the case may be, authorize the giving
11 to the said purchaser a confirmatory deed.

12 In every such further foreclosure, or reforeclosure proceeding,
13 brought pursuant to the provisions of **[sections]** section 2 [and 3]
14 of **[this act]** P.L.1955, c.278 (C.54:5-104.73) or this section, the
15 municipality or abandoned property certificate holder shall clearly
16 set forth in the notice and in the complaint, that the proceeding is
17 instituted pursuant to **[sections]** section 2 [and 3] of **[this**
18 **supplemental act]** P.L.1955, c.278 (C.54:5-104.73) or this section,
19 and that the judgment to be obtained will specifically contain a
20 provision giving full effect to the foregoing proviso and such
21 judgment shall contain appropriate provisions to that effect.
22 (cf: P.L.1955, c.278, s.3)

23

24 9. This act shall take effect immediately.

25

26

27

STATEMENT

28

29 This bill would permit a person who holds a tax lien on an
30 abandoned property to institute an in rem tax foreclosure action
31 against the property. Under current law, an in rem tax foreclosure
32 action may generally only be instituted by a municipality. This bill
33 would allow other tax lien holders to institute such actions, but only
34 with respect to abandoned properties. This would enable such tax
35 lien holder to institute an action to foreclose the right of redemption
36 with respect to a tax lien on an abandoned property in a more
37 streamlined manner than is currently allowed. Specifically, such
38 tax lien holder would be subject to less stringent notice
39 requirements than is required in an ordinary, in personam, tax
40 foreclosure action. The bill would encourage the faster return to the
41 tax rolls of tax delinquent properties, which would in turn help to
42 revitalize neighborhoods with a lot of tax delinquent properties.

43 An in rem tax foreclosure action only affects real property and
44 no personal judgment for money against an owner of the property
45 subject to the foreclosure action could be obtained through an in
46 rem tax foreclosure action.

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2
3
4
5

Authorizes tax lien holders other than municipalities to institute
in rem tax foreclosure actions against abandoned properties.

ASSEMBLY, No. 3357

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 9, 2014

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Assemblyman CARMELO G. GARCIA

District 33 (Hudson)

Co-Sponsored by:

Senator Van Drew

SYNOPSIS

Authorizes tax lien holders other than municipalities to institute in rem tax foreclosure actions against abandoned properties.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/19/2014)

A3357 SINGLETON, LAGANA

2

1 AN ACT authorizing persons to institute in rem tax foreclosure
2 actions against abandoned properties and amending R.S.54:5-86,
3 P.L.1948, c.96, and P.L.1955, c.278.

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

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8 1. R.S.54:5-86 is amended to read as follows:

9 54:5-86. a. When the municipality is the purchaser of a tax sale
10 certificate, the municipality, or its assignee or transferee, may, at
11 any time after the expiration of the term of six months from the date
12 of sale, institute an action to foreclose the right of redemption.
13 Except as provided in subsection a. of section 39 of P.L.1996, c.62
14 (C.55:19-58) or as provided in subsection b. of this section, for all
15 other persons that do not acquire a tax sale certificate from a
16 municipality, an action to foreclose the right of redemption may be
17 instituted at any time after the expiration of the term of two years
18 from the date of sale of the tax sale certificate. On instituting the
19 action the right to redeem shall exist and continue until barred by
20 the judgment of the Superior Court.

21 b. Any person holding a tax sale certificate on a property that
22 meets the definition of abandoned property as set forth in P.L.2003,
23 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
24 thereafter, may at any time file an action with the Superior Court in
25 the county wherein said municipality is situate, demanding that the
26 right of redemption on such property be barred, pursuant to the "tax
27 sale law," R.S.54:5-1 et seq. , or the In Rem Tax Foreclosure Act
28 (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall
29 include a certification by the public officer or the tax collector that
30 the property is abandoned, provided pursuant to subsection d. of
31 section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the
32 certificate holder has unsuccessfully sought such certification from
33 the public officer or tax collector, as the case may be, the certificate
34 holder may submit to the court evidence that the property is
35 abandoned, accompanied by a report and sworn statement by an
36 individual holding appropriate licensure or professional
37 qualifications, and shall provide a copy of those documents
38 submitted to the court to the public officer and the tax collector. On
39 the basis of this submission and any submission provided by the
40 public officer or tax collector, as the case may be, the court shall
41 determine whether the property meets the definition of abandoned
42 property.

43 c. Any person holding a tax sale certificate on a property that
44 meets the definition of abandoned property as set forth in P.L.2003,
45 c.210 (C.55:19-78 et al.), either at the time of the tax sale or

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.

1 thereafter, may enter upon that property at any time after written
2 notice to the owner by certified mail return receipt requested in
3 order to make repairs, or abate, remove or correct any condition
4 harmful to the public health, safety and welfare, or any condition
5 that is materially reducing the value of the property.

6 d. Any sums incurred or advanced pursuant to subsection c. of
7 this section may be added to the unpaid balance due the holder of
8 the tax sale certificate at the statutory interest rate for subsequent
9 liens.

10 (cf: P.L.2005, c.118, s.11)

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12 2. Section 2 of P.L.1948, c.96 (C.54:5-104.30) is amended to
13 read as follows:

14 2. When used in **[this act]** the In Rem Tax Foreclosure Act
15 (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.):

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17 power to assess and collect taxes.

18 (b) "Tax Collector" or "collector" shall mean the officer of the
19 municipality charged by law with the duty of collecting general
20 land taxes and the enforcement of tax liens.

21 (c) "County recording officer" shall mean the county officer in
22 whose office deeds are recorded for the county in which the land
23 affected by a proceeding under this act is located.

24 (d) "Land" or "lands" shall mean and include all real property.

25 (e) "Tax liens" shall mean all liens for general land taxes, and
26 for all other municipal taxes which are liens on land, together with
27 accrued interest, penalties and costs of collection thereon heretofore
28 existing or hereafter arising pursuant to any law.

29 (f) "Tax lien title" shall mean the title derived from a sale
30 according to law to satisfy any tax lien and evidenced by a tax sale
31 certificate.

32 (g) "Person" or "persons" shall mean an individual, a
33 corporation, an association, a municipal corporation, a body
34 corporate and politic, a governing body of a municipality, or a
35 governmental agency, and the singular may include the plural.

36 (h) "Abandoned property certificate holder" means a person
37 authorized to file an action pursuant to subsection b. of R.S.54:5-86.

38 (cf: P.L.1948, c.96, s.2)

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40 3. Section 3 of P.L.1948, c.96 (C.54:5-104.31) is amended to
41 read as follows:

42 3. **[This act]** The In Rem Tax Foreclosure Act (1948),
43 P.L.1948, c.96 (C.54:5-104.29 et seq.) shall be liberally construed
44 as remedial legislation to encourage the barring of rights of
45 redemption, and is an alternate and additional remedy to any other
46 remedy provided by law, and shall apply to certificates of tax sales
47 heretofore or hereafter issued and held by a municipality or an

1 abandoned property certificate holder.

2 (cf: P.L.1948, c.96, s.3)

3

4 4. Section 4 of P.L.1948, c.96 (C.54:5-104.32) is amended to
5 read as follows:

6 4. Any municipality or abandoned property certificate holder
7 may proceed, In Rem, pursuant to the provisions of **【this act】** the In
8 Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et
9 seq.), similarly to bar rights of redemption, after said certificate has
10 been recorded in the office of the county recording officer. Neither
11 the foreclosure nor the recording of any such judgment or certificate
12 shall be construed to be a sale, transfer, or conveyance of title or
13 interest to the subject property under the provisions of the "Uniform
14 Fraudulent Transfer Act," R.S.25:2-20 et seq.

15 (cf: P.L.1994, c.32, s.15)

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24 b. All or any portion of the general land taxes levied and
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26 commencement of the action, other than those subject to payment
27 by installments authorized by a resolution adopted pursuant to
28 R.S.54:5-65, remains unpaid.

29 Such action on a tax sale certificate may include the lien for
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31 conjunction with or independent of one another.

32 (cf: P.L.1995, c.326, s.2)

33

34 6. Section 1 of P.L.1955, c.278 (C.54:5-104.72) is amended to
35 read as follows:

36 1. Where

37 (a) any proceeding pursuant to the provisions of the **【act】** In
38 Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et
39 seq.), to which **【this act】** P.L.1955, c.278 (C.54:5-104.72 et seq.) is
40 a supplement, or

41 (b) any other proceeding for the foreclosure of a right of
42 redemption where the right could then have been, but was not,
43 foreclosed in the manner provided by **【said act】** the In Rem Tax
44 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.) if
45 **【said】** that act had then been in effect,

46 has been heretofore or shall be hereafter instituted and judgment
47 obtained, and after the entry of such judgment it is discovered that

1 there were irregularities, or that there may have been irregularities,
2 in the conduct of the proceedings, the municipality **【which】** or
3 abandoned property certificate holder that instituted the
4 proceedings, may conduct a proceeding under the **【said act】** In Rem
5 Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.),
6 in the same manner and with the same effect as the first proceeding
7 would have had if it had been regularly prosecuted to judgment
8 under **【the said】** that act.

9 (cf: P.L.1961, c.112, s.1)

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11 7. Section 2 of P.L.1955, c.278 (C.54:5-104.73) is amended to
12 read as follows:

13 2. Where a municipality or abandoned property certificate
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21 104.29 et seq.), to which **【this act】** P.L.1955, c.278 (C.54:5-104.72
22 et seq.) is a supplement, for the purpose of correcting and
23 overcoming any irregularity in the prior foreclosure proceedings, or
24 to bar any outstanding right of redemption of the lands from the tax
25 sale which resulted in the said tax sale certificate, which right of
26 redemption could have been but was not barred by the said prior
27 foreclosure proceedings.

28 (cf: P.L.1955, c.278, s.2)

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30 8. Section 3 of P.L.1955, c.278 (C.54:5-104.74) is amended to
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32 3. Notwithstanding the prior sale of the property by the
33 municipality or abandoned property certificate holder, the
34 municipality or abandoned property certificate holder in any case,
35 as provided for in the preceding section, shall have the right to
36 further so foreclose or reforeclose the tax sale certificates for the
37 purpose of correcting or overcoming any irregularity in the prior
38 foreclosure proceeding, or to bar any outstanding right of
39 redemption of the lands from the tax sale which resulted in the said
40 tax sale certificate, which right was not barred by the said prior
41 foreclosure proceeding, but could have been, in the manner
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43 P.L.1948, c.96 (C.54:5-104.29 et seq.), to which **【this act】**
44 P.L.1955, c.278 (C.54:5-104.72 et seq.) is a supplement, if that act
45 was then in effect; provided, however, that in any such foreclosure
46 proceeding brought pursuant to section 2 of **【this act】** P.L.1955,
47 c.278 (C.54:5-104.73) the judgment of foreclosure therein obtained

1 shall not affect the right, title, and interest in said lands of the said
2 purchaser from the municipality or abandoned property certificate
3 holder or of any person deriving an interest therein from, through,
4 or by any action of, the said purchaser, and the said judgment shall
5 bar such outstanding interests as are foreclosed for the benefit of the
6 said purchaser and the governing body of the municipality may by
7 resolution or abandoned property certificate holder may as
8 otherwise provided by law, as the case may be, authorize the giving
9 to the said purchaser a confirmatory deed.

10 In every such further foreclosure, or reforeclosure proceeding,
11 brought pursuant to the provisions of **[sections]** section 2 [and 3]
12 of **[this act]** P.L.1955, c.278 (C.54:5-104.73) or this section, the
13 municipality or abandoned property certificate holder shall clearly
14 set forth in the notice and in the complaint, that the proceeding is
15 instituted pursuant to **[sections]** section 2 [and 3] of **[this**
16 **supplemental act]** P.L.1955, c.278 (C.54:5-104.73) or this section,
17 and that the judgment to be obtained will specifically contain a
18 provision giving full effect to the foregoing proviso and such
19 judgment shall contain appropriate provisions to that effect.
20 (cf: P.L.1955, c.278, s.3)

21

22 9. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill would permit a person who holds a tax lien on an
28 abandoned property to institute an in rem tax foreclosure action
29 against the property. Under current law, an in rem tax foreclosure
30 action may generally only be instituted by a municipality. This bill
31 would allow other tax lien holders to institute such actions, but only
32 with respect to abandoned properties. This would enable such tax
33 lien holder to institute an action to foreclose the right of redemption
34 with respect to a tax lien on an abandoned property in a more
35 streamlined manner than is currently allowed. Specifically, such
36 tax lien holder would be subject to less stringent notice
37 requirements than is required in an ordinary, in personam, tax
38 foreclosure action. The bill would encourage the faster return to the
39 tax rolls of tax delinquent properties, which would in turn help to
40 revitalize neighborhoods with a lot of tax delinquent properties.

41 An in rem tax foreclosure action only affects real property and
42 no personal judgment for money against an owner of the property
43 subject to the foreclosure action could be obtained through an in
44 rem tax foreclosure action.

ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3357

STATE OF NEW JERSEY

DATED: OCTOBER 2, 2014

The Assembly Housing and Community Development Committee reports favorably Assembly Bill No. 3357.

This bill would permit a person who holds a tax lien on an abandoned property to institute an in rem tax foreclosure action against the property. Under current law, an in rem tax foreclosure action may generally only be instituted by a municipality. This bill would allow other tax lien holders to institute such actions, but only with respect to abandoned properties. This would enable such tax lien holder to institute an action to foreclose the right of redemption with respect to a tax lien on an abandoned property in a more streamlined manner than is currently allowed. Specifically, such tax lien holder would be subject to less stringent notice requirements than is required in an ordinary, in personam, tax foreclosure action. The bill would encourage the faster return to the tax rolls of tax delinquent properties, which would in turn help to revitalize neighborhoods with a lot of tax delinquent properties.

An in rem tax foreclosure action only affects real property and no personal judgment for money against an owner of the property subject to the foreclosure action could be obtained through an in rem tax foreclosure action.

SENATE, No. 2609

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 8, 2014

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Authorizes tax lien holders other than municipalities to institute in rem tax foreclosure actions against abandoned properties.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing persons to institute in rem tax foreclosure
2 actions against abandoned properties and amending R.S.54:5-86,
3 P.L.1948, c.96, and P.L.1955, c.278.

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

7
8 1. R.S.54:5-86 is amended to read as follows:

9 54:5-86. a. When the municipality is the purchaser of a tax sale
10 certificate, the municipality, or its assignee or transferee, may, at
11 any time after the expiration of the term of six months from the date
12 of sale, institute an action to foreclose the right of redemption.
13 Except as provided in subsection a. of section 39 of P.L.1996, c.62
14 (C.55:19-58) or as provided in subsection b. of this section, for all
15 other persons that do not acquire a tax sale certificate from a
16 municipality, an action to foreclose the right of redemption may be
17 instituted at any time after the expiration of the term of two years
18 from the date of sale of the tax sale certificate. On instituting the
19 action the right to redeem shall exist and continue until barred by
20 the judgment of the Superior Court.

21 b. Any person holding a tax sale certificate on a property that
22 meets the definition of abandoned property as set forth in P.L.2003,
23 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
24 thereafter, may at any time file an action with the Superior Court in
25 the county wherein said municipality is situate, demanding that the
26 right of redemption on such property be barred, pursuant to the "tax
27 sale law," R.S.54:5-1 et seq. , or the In Rem Tax Foreclosure Act
28 (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall
29 include a certification by the public officer or the tax collector that
30 the property is abandoned, provided pursuant to subsection d. of
31 section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the
32 certificate holder has unsuccessfully sought such certification from
33 the public officer or tax collector, as the case may be, the certificate
34 holder may submit to the court evidence that the property is
35 abandoned, accompanied by a report and sworn statement by an
36 individual holding appropriate licensure or professional
37 qualifications, and shall provide a copy of those documents
38 submitted to the court to the public officer and the tax collector. On
39 the basis of this submission and any submission provided by the
40 public officer or tax collector, as the case may be, the court shall
41 determine whether the property meets the definition of abandoned
42 property.

43 c. Any person holding a tax sale certificate on a property that
44 meets the definition of abandoned property as set forth in P.L.2003,
45 c.210 (C.55:19-78 et al.), either at the time of the tax sale or

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.

1 thereafter, may enter upon that property at any time after written
2 notice to the owner by certified mail return receipt requested in
3 order to make repairs, or abate, remove or correct any condition
4 harmful to the public health, safety and welfare, or any condition
5 that is materially reducing the value of the property.

6 d. Any sums incurred or advanced pursuant to subsection c. of
7 this section may be added to the unpaid balance due the holder of
8 the tax sale certificate at the statutory interest rate for subsequent
9 liens.
10 (cf: P.L.2005, c.118, s.11)

11
12 2. Section 2 of P.L.1948, c.96 (C.54:5-104.30) is amended to
13 read as follows:

14 2. When used in **[this act]** the In Rem Tax Foreclosure Act
15 (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.):

16 (a) "Municipality" shall mean every taxing district having the
17 power to assess and collect taxes.

18 (b) "Tax Collector" or "collector" shall mean the officer of the
19 municipality charged by law with the duty of collecting general
20 land taxes and the enforcement of tax liens.

21 (c) "County recording officer" shall mean the county officer in
22 whose office deeds are recorded for the county in which the land
23 affected by a proceeding under this act is located.

24 (d) "Land" or "lands" shall mean and include all real property.

25 (e) "Tax liens" shall mean all liens for general land taxes, and
26 for all other municipal taxes which are liens on land, together with
27 accrued interest, penalties and costs of collection thereon heretofore
28 existing or hereafter arising pursuant to any law.

29 (f) "Tax lien title" shall mean the title derived from a sale
30 according to law to satisfy any tax lien and evidenced by a tax sale
31 certificate.

32 (g) "Person" or "persons" shall mean an individual, a
33 corporation, an association, a municipal corporation, a body
34 corporate and politic, a governing body of a municipality, or a
35 governmental agency, and the singular may include the plural.

36 (h) "Abandoned property certificate holder" means a person
37 authorized to file an action pursuant to subsection b. of R.S.54:5-86.
38 (cf: P.L.1948, c.96, s.2)

39
40 3. Section 3 of P.L.1948, c.96 (C.54:5-104.31) is amended to
41 read as follows:

42 3. **[This act]** The In Rem Tax Foreclosure Act (1948),
43 P.L.1948, c.96 (C.54:5-104.29 et seq.) shall be liberally construed
44 as remedial legislation to encourage the barring of rights of
45 redemption, and is an alternate and additional remedy to any other
46 remedy provided by law, and shall apply to certificates of tax sales
47 heretofore or hereafter issued and held by a municipality or an

1 abandoned property certificate holder.

2 (cf: P.L.1948, c.96, s.3)

3

4 4. Section 4 of P.L.1948, c.96 (C.54:5-104.32) is amended to
5 read as follows:

6 4. Any municipality or abandoned property certificate holder
7 may proceed, In Rem, pursuant to the provisions of **【this act】** the In
8 Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et
9 seq.), similarly to bar rights of redemption, after said certificate has
10 been recorded in the office of the county recording officer. Neither
11 the foreclosure nor the recording of any such judgment or certificate
12 shall be construed to be a sale, transfer, or conveyance of title or
13 interest to the subject property under the provisions of the "Uniform
14 Fraudulent Transfer Act," R.S.25:2-20 et seq.

15 (cf: P.L.1994, c.32, s.15)

16

17 5. Section 6 of P.L.1948, c.96 (C.54:5-104.34) is amended to
18 read as follows:

19 6. No action may be instituted by a municipality under **【this**
20 **act】** the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96
21 (C.54:5-104.29 et seq.), on any tax sale certificate unless:

22 a. More than six months have expired from the date of the tax
23 sale out of which any such certificate arose; and

24 b. All or any portion of the general land taxes levied and
25 assessed against the land for 21 months next preceding the
26 commencement of the action, other than those subject to payment
27 by installments authorized by a resolution adopted pursuant to
28 R.S.54:5-65, remains unpaid.

29 Such action on a tax sale certificate may include the lien for
30 unpaid taxes, utility liens or any other municipal liens in
31 conjunction with or independent of one another.

32 (cf: P.L.1995, c.326, s.2)

33

34 6. Section 1 of P.L.1955, c.278 (C.54:5-104.72) is amended to
35 read as follows:

36 1. Where

37 (a) any proceeding pursuant to the provisions of the **【act】** In
38 Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et
39 seq.), to which **【this act】** P.L.1955, c.278 (C.54:5-104.72 et seq.) is
40 a supplement, or

41 (b) any other proceeding for the foreclosure of a right of
42 redemption where the right could then have been, but was not,
43 foreclosed in the manner provided by **【said act】** the In Rem Tax
44 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.) if
45 **【said】** that act had then been in effect,

46 has been heretofore or shall be hereafter instituted and judgment
47 obtained, and after the entry of such judgment it is discovered that

1 there were irregularities, or that there may have been irregularities,
2 in the conduct of the proceedings, the municipality **【which】** or
3 abandoned property certificate holder that instituted the
4 proceedings, may conduct a proceeding under the **【said act】** In Rem
5 Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.),
6 in the same manner and with the same effect as the first proceeding
7 would have had if it had been regularly prosecuted to judgment
8 under **【the said】** that act.
9 (cf: P.L.1961, c.112, s.1)

10
11 7. Section 2 of P.L.1955, c.278 (C.54:5-104.73) is amended to
12 read as follows:

13 2. Where a municipality or abandoned property certificate
14 holder has heretofore sold and transferred, or shall hereafter sell and
15 transfer, lands to a purchaser, title to which was acquired by the
16 municipality or abandoned property certificate holder under a tax
17 sale certificate and the foreclosure thereof, the said purchaser may
18 request the municipality or abandoned property certificate holder to
19 further foreclose or reforeclose such tax sale certificate under the
20 **【act】** In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-
21 104.29 et seq.), to which **【this act】** P.L.1955, c.278 (C.54:5-104.72
22 et seq.) is a supplement, for the purpose of correcting and
23 overcoming any irregularity in the prior foreclosure proceedings, or
24 to bar any outstanding right of redemption of the lands from the tax
25 sale which resulted in the said tax sale certificate, which right of
26 redemption could have been but was not barred by the said prior
27 foreclosure proceedings.
28 (cf: P.L.1955, c.278, s.2)

29
30 8. Section 3 of P.L.1955, c.278 (C.54:5-104.74) is amended to
31 read as follows:

32 3. Notwithstanding the prior sale of the property by the
33 municipality or abandoned property certificate holder, the
34 municipality or abandoned property certificate holder in any case,
35 as provided for in the preceding section, shall have the right to
36 further so foreclose or reforeclose the tax sale certificates for the
37 purpose of correcting or overcoming any irregularity in the prior
38 foreclosure proceeding, or to bar any outstanding right of
39 redemption of the lands from the tax sale which resulted in the said
40 tax sale certificate, which right was not barred by the said prior
41 foreclosure proceeding, but could have been, in the manner
42 provided by the **【act】** In Rem Tax Foreclosure Act (1948),
43 P.L.1948, c.96 (C.54:5-104.29 et seq.), to which **【this act】**
44 P.L.1955, c.278 (C.54:5-104.72 et seq.) is a supplement, if that act
45 was then in effect; provided, however, that in any such foreclosure
46 proceeding brought pursuant to section 2 of **【this act】** P.L.1955,
47 c.278 (C.54:5-104.73) the judgment of foreclosure therein obtained

1 shall not affect the right, title, and interest in said lands of the said
2 purchaser from the municipality or abandoned property certificate
3 holder or of any person deriving an interest therein from, through,
4 or by any action of, the said purchaser, and the said judgment shall
5 bar such outstanding interests as are foreclosed for the benefit of the
6 said purchaser and the governing body of the municipality may by
7 resolution or abandoned property certificate holder may as
8 otherwise provided by law, as the case may be, authorize the giving
9 to the said purchaser a confirmatory deed.

10 In every such further foreclosure, or reforeclosure proceeding,
11 brought pursuant to the provisions of **[sections]** section 2 [and 3]
12 of **[this act]** P.L.1955, c.278 (C.54:5-104.73) or this section, the
13 municipality or abandoned property certificate holder shall clearly
14 set forth in the notice and in the complaint, that the proceeding is
15 instituted pursuant to **[sections]** section 2 [and 3] of **[this**
16 **supplemental act]** P.L.1955, c.278 (C.54:5-104.73) or this section,
17 and that the judgment to be obtained will specifically contain a
18 provision giving full effect to the foregoing proviso and such
19 judgment shall contain appropriate provisions to that effect.
20 (cf: P.L.1955, c.278, s.3)

21

22 9. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill would permit a person who holds a tax lien on an
28 abandoned property to institute an in rem tax foreclosure action
29 against the property. Under current law, an in rem tax foreclosure
30 action may generally only be instituted by a municipality. This bill
31 would allow other tax lien holders to institute such actions, but only
32 with respect to abandoned properties. This would enable such tax
33 lien holder to institute an action to foreclose the right of redemption
34 with respect to a tax lien on an abandoned property in a more
35 streamlined manner than is currently allowed. Specifically, such
36 tax lien holder would be subject to less stringent notice
37 requirements than is required in an ordinary, in personam, tax
38 foreclosure action. The bill would encourage the faster return to the
39 tax rolls of tax delinquent properties, which would in turn help to
40 revitalize neighborhoods with a lot of tax delinquent properties.

41 An in rem tax foreclosure action only affects real property and
42 no personal judgment for money against an owner of the property
43 subject to the foreclosure action could be obtained through an in
44 rem tax foreclosure action.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2609

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2014

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2609.

This bill would permit a person who holds a tax lien on an abandoned property to institute an in rem tax foreclosure action against the property. Under current law, an in rem tax foreclosure action may generally only be instituted by a municipality. This bill would allow other tax lien holders to institute such actions, but only with respect to abandoned properties. This would enable such tax lien holder to institute an action to foreclose the right of redemption with respect to a tax lien on an abandoned property in a more streamlined manner than is currently allowed. Specifically, such tax lien holder would be subject to less stringent notice requirements than is required in an ordinary, in personam, tax foreclosure action.

An in rem tax foreclosure action only affects real property and no personal judgment for money against an owner of the property subject to the foreclosure action could be obtained through an in rem tax foreclosure action.