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P.L. 2003, CHAPTER 210, *approved January 8, 2004*
Assembly Committee Substitute for
Assembly, No. 2543

1 AN ACT concerning property abandonment, amending P.L.1942,
2 c.112, R.S.54:5-86, and amending and supplementing P.L.1996,
3 c.62 (C.55:19-20 et al.).
4

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

7
8 1. (New section) This act shall be known and may be cited as the
9 "Abandoned Properties Rehabilitation Act."
10

11 2. (New section) The Legislature finds and declares that:

12 a. Abandoned properties, particularly those located within urban
13 areas or in close proximity to occupied residences and businesses,
14 create a wide range of problems for the communities in which they are
15 located, fostering criminal activity, creating public health problems and
16 otherwise diminishing the quality of life for residents and business
17 operators in those areas.

18 b. Abandoned properties diminish the property values of
19 neighboring properties and have a negative effect on the quality of life
20 of adjacent property owners, increasing the risk of property damage
21 through arson and vandalism and discouraging neighborhood stability
22 and revitalization.

23 c. For these reasons, abandoned properties are presumptively
24 considered to be nuisances, in view of their negative effects on nearby
25 properties and the residents or users of those properties.

26 d. The continued presence of abandoned properties in New
27 Jersey's communities acts as a significant barrier to urban revitalization
28 and to the regeneration of the State's urban centers.

29 e. Abandonment is a local problem that must be addressed locally
30 and the most important role of State government is to provide local
31 governments, local community organizations, citizens, and residents
32 with the tools to address the problem.

33 f. The responsibility of a property owner to maintain a property in
34 sound condition and prevent it from becoming a nuisance to others
35 extends to properties which are not in use and 'demolition by neglect',
36 leading to the deterioration and loss of the property, or failure by an
37 owner to comply with legitimate orders to demolish, stabilize or
38 otherwise repair his or her property creates a presumption that the

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 owner has abandoned the property.

2 g. Many abandoned buildings still have potential value for
3 residential and other uses and such buildings should be preserved
4 rather than demolished, wherever feasible, particularly buildings that
5 have historic or architectural value, or contribute to maintaining the
6 character of neighborhoods or streetscapes, or both, as the case may
7 be.

8

9 3. (New section) As used in sections 1 through 25 of P.L. , c.
10 (C.) (pending before the Legislature as this bill):

11 "Department" means the New Jersey Department of Community
12 Affairs.

13 "Lienholder" or "mortgage holder" means any person or entity
14 holding a note, mortgage or other interest secured by the building or
15 any part thereof.

16 "Municipality" means any city, borough, town, township or village
17 situated within the boundaries of this State and shall include a qualified
18 rehabilitation entity that may be designated by the municipality
19 pursuant to section 13 of P.L. , c. (C.) (pending before the
20 Legislature as this bill) to act as its agent to exercise any of the
21 municipality's rights pursuant thereto.

22 "Owner" means the holder or holders of title to an abandoned
23 property.

24 "Property" means any building or structure and the land
25 appurtenant thereto.

26 "Public officer" means the person designated by the municipality
27 pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5).

28 "Qualified rehabilitation entity" means an entity organized or
29 authorized to do business under the New Jersey statutes which shall
30 have as one of its purposes the construction or rehabilitation of
31 residential or non-residential buildings, the provision of affordable
32 housing, the restoration of abandoned property, the revitalization and
33 improvement of urban neighborhoods, or similar purpose, and which
34 shall be well qualified by virtue of its staff, professional consultants,
35 financial resources, and prior activities set forth in P.L. , c. (C.)
36 (pending before the Legislature as this bill) to carry out the
37 rehabilitation of vacant buildings in urban areas.

38

39 4. (New section) Except as provided in section 6 of P.L. , c.
40 (C.) (pending before the Legislature as this bill), any property
41 that has not been legally occupied for a period of six months and
42 which meets any one of the following additional criteria may be
43 deemed to be abandoned property upon a determination by the public
44 officer that:

45 a. The property is in need of rehabilitation in the reasonable
46 judgment of the public officer, and no rehabilitation has taken place

1 during that six month period;

2 b. Construction was initiated on the property and was
3 discontinued prior to completion, leaving the building unsuitable for
4 occupancy, and no construction has taken place for at least six months
5 as of the date of a determination by the public officer pursuant to this
6 section;

7 c. At least one installment of property tax remains unpaid and
8 delinquent on that property in accordance with chapter 4 of Title 54
9 of the Revised Statutes as of the date of a determination by the public
10 officer pursuant to this section; or

11 d. The property has been determined to be a nuisance by the
12 public officer in accordance with section 5 of P.L. , c. (C.)
13 (pending before the Legislature as this bill).

14

15 5. (New section) A property may be determined to be a nuisance
16 if:

17 a. The property has been found to be unfit for human habitation,
18 occupancy or use pursuant to section 1 of P.L.1942, c.112 (C.40:48-
19 2.3);

20 b. The condition and vacancy of the property materially increases
21 the risk of fire to the property and adjacent properties;

22 c. The property is subject to unauthorized entry leading to
23 potential health and safety hazards; the owner has failed to take
24 reasonable and necessary measures to secure the property; or the
25 municipality has secured the property in order to prevent such hazards
26 after the owner has failed to do so;

27 d. The presence of vermin or the accumulation of debris, uncut
28 vegetation or physical deterioration of the structure or grounds have
29 created potential health and safety hazards and the owner has failed to
30 take reasonable and necessary measures to remove the hazards; or

31 e. The dilapidated appearance or other condition of the property
32 materially affects the welfare, including the economic welfare, of the
33 residents of the area in close proximity to the property, and the owner
34 has failed to take reasonable and necessary measures to remedy the
35 conditions.

36 A public officer who determines a property to be a nuisance
37 pursuant to subsections b. through e. of this section shall follow the
38 notification procedures set forth in P.L.1942, c.112 (C.40:48-2.3 et
39 seq.).

40

41 6. (New section) a. If an entity other than the municipality has
42 purchased or taken assignment from the municipality of a tax sale
43 certificate on an unoccupied property, that property shall not be
44 deemed to be abandoned if (1) the owner of the certificate has
45 continued to pay all municipal taxes and liens on the property in the
46 tax year when due; and (2) the owner of the certificate takes action

1 to initiate foreclosure proceedings within six months after the property
2 is eligible for foreclosure;

3 b. A property which is used on a seasonal basis shall be deemed
4 to be abandoned only if the property meets any two of the additional
5 criteria set forth in section 4 of P.L. , c. (C.) (pending
6 before the Legislature as this bill).

7 c. A determination that a property is abandoned property under
8 the provisions of P.L. , c. (C.) (pending before the Legislature
9 as this bill) shall not constitute a finding that the use of the property
10 has been abandoned for purposes of municipal zoning or land use
11 regulation.

12

13 7. (New section) A summary action or otherwise to transfer
14 possession and control of abandoned property in need of rehabilitation
15 to a municipality may be brought by a municipality in the Superior
16 Court in the county in which the property is situated. If the court shall
17 find that the property is abandoned pursuant to section 4 of P.L. , c.
18 (C.) (pending before the Legislature as this bill) and the owner
19 or party in interest has failed to submit and initiate a rehabilitation
20 plan, then the court may authorize the municipality to take possession
21 and control of the property and develop a rehabilitation plan.

22 The municipality granted possession and control may commence
23 and maintain those further proceedings for the conservation,
24 protection or disposal of the property or any part thereof that are
25 required to rehabilitate the property, necessary to recoup the cost and
26 expenses of rehabilitation and for the sale of the property; provided,
27 however, that the court shall not direct the sale of the property if the
28 owner applies to the court for reinstatement of control of the property
29 as provided in section 15 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 Failure by the owner, mortgage holder or lien holder to submit
32 plans for rehabilitation to the municipality, obtain appropriate
33 construction permits for rehabilitation or, in the alternative, submit
34 formal applications for funding the cost of rehabilitation to local, State
35 or Federal agencies providing such funding within that six month
36 period shall be deemed prima facie evidence that the owner has failed
37 to take any action to further the rehabilitation of the property.

38

39 8. (New section) A complaint filed pursuant to section 7 of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 shall include:

42 a. documentation that the property is on the municipal abandoned
43 property list or a certification by the public officer that the property is
44 abandoned; and

45 b. a statement by an individual holding appropriate professional
46 qualifications that there are sound reasons that the building should be

1 rehabilitated rather than demolished based upon the physical, aesthetic
2 or historical character of the building or the relationship of the
3 building to other buildings and lands within its immediate vicinity.

4
5 9. (New section) a. Within 10 days of filing a complaint pursuant
6 to P.L. , c. (C.) (pending before the Legislature as this bill),
7 the plaintiff shall file a notice of lis pendens with the county recording
8 officer of the county within which the building is located.

9 b. At least 30 days before filing the complaint, the municipality
10 shall serve a notice of intention to take possession of an abandoned
11 building. The notice shall inform the owner and interested parties that
12 the property has not been legally occupied for six months and of those
13 criteria that led to a determination of abandonment pursuant to section
14 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

15 The notice shall provide that unless the owner or a party in interest
16 prepares and submits a rehabilitation plan to the appropriate municipal
17 officials, the municipality will seek to gain possession of the building
18 to rehabilitate the property and the associated cost shall be a lien
19 against the property, which may be satisfied by the sale of the
20 property, unless the owner applies to the court for reinstatement of
21 control of the property as provided in section 15 of P.L. , c.
22 (C.) (pending before the Legislature as this bill).

23 After the complaint is filed, the complaint shall be served on the
24 parties in interest in accordance with the New Jersey Rules of Court.

25
26 10. (New section) a. Any owner may defend against a complaint
27 filed pursuant to section 7 of P.L. , c. (C.) (pending
28 before the Legislature as this bill) by submitting a plan for the
29 rehabilitation and reuse of the property which is the subject of the
30 complaint and by posting a bond equal to 125 percent of the amount
31 determined by the public officer or the court to be the projected cost
32 of rehabilitation.

33 b. A plan submitted by an owner pursuant to this section shall
34 include, but not be limited to:

35 (1) A detailed financial feasibility analysis, including
36 documentation of the economic feasibility of the proposed reuse,
37 including operating budgets or resale prices, or both, as appropriate;

38 (2) A budget for the rehabilitation of the property, including
39 sources and uses of funds, based on the terms and conditions of
40 realistically available financing, including grants and loans;

41 (3) A timetable for the completion of rehabilitation and reuse of
42 the property, including milestones for performance of major steps
43 leading to and encompassing the rehabilitation and reuse of the
44 property; and

45 (4) Documentation of the qualifications of the individuals and
46 firms that will be engaged to carry out the planning, design, financial

1 packaging, construction, and marketing or rental of the property.

2 c. (1) The court shall approve any plan that, in the judgment of
3 the court, is realistic and likely to result in the expeditious
4 rehabilitation and reuse of the property which is the subject of the
5 complaint.

6 (2) If the court approves the owner's plan, then it may appoint the
7 public officer to act as monitor of the owner's compliance. If the
8 owner fails to carry out any step in the approved plan, then the
9 municipality may apply to the court to have the owner's bond forfeited,
10 possession of the building transferred to the municipality to complete
11 the rehabilitation plan and authorization to use the bond proceeds for
12 rehabilitation of the property.

13 (3) The owner shall provide quarterly reports to the municipality
14 on its activities and progress toward rehabilitation and reuse of the
15 property. The owner shall provide those reports to the court on its
16 activities that the court determines are necessary.

17 d. The court may reject a plan and bond if it finds that the plan
18 does not represent a realistic and expeditious means of ensuring the
19 rehabilitation of the property or that the owner or his representatives
20 or agents, or both, lack the qualifications, background or other criteria
21 necessary to ensure that the plan will be carried out successfully.

22

23 11. (New section) a. If an owner is unsuccessful in defending
24 against a complaint filed pursuant to section 7 of P.L. , c. (C.)
25 (pending before the Legislature as this bill), the mortgage holder or
26 lien holder may seek to be designated in possession of the property by
27 submitting a plan and posting a bond meeting the same conditions as
28 set forth in section 10 of P.L. , c. (C.) (pending
29 before the Legislature as this bill). If the court approves any such
30 mortgage holder or lien holder's plan, it shall designate that party to
31 be in possession of the property for purposes of ensuring its
32 rehabilitation and reuse and may appoint the public officer to act as
33 monitor of the party's compliance.

34 The mortgage holder or lien holder, as the case may be, shall
35 provide quarterly reports to the court and the municipality on its
36 activities and progress toward rehabilitation and reuse of the property.

37 If the mortgage holder or lien holder fails to carry out any material
38 step in the approved plan, then the public officer shall notify the court,
39 which may order the bond forfeit, grant the municipality possession of
40 the property, and authorize the municipality to use the proceeds of the
41 bond for rehabilitation of the property.

42 b. Any sums incurred or advanced for the purpose of rehabilitating
43 the property by a mortgage holder or lien holder granted possession
44 of a property pursuant to subsection a. of this section, including court
45 costs and reasonable attorney's fees, may be added to the unpaid
46 balance due that mortgage holder or lien holder, with interest

1 calculated at the same rate set forth in the note or security agreement;
2 or, in the case of a tax lien holder, at the statutory interest rate for
3 subsequent liens.

4
5 12. (New section) If no mortgage holder or lienholder meets the
6 conditions of section 11 of P.L. , c. (C.) (pending before
7 the Legislature as this bill), then the municipality shall submit a plan to
8 the court which conforms with the provisions of subsection b. of
9 section 10 of P.L. , c. (C.) (pending before the
10 Legislature as this bill). The plan shall designate the entity which shall
11 implement the plan, which may be the municipality or that entity
12 designated in accordance with the provisions of section 13 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill).

14 The court shall grant the municipality possession of the property
15 if it finds that:

- 16 a. the proposed rehabilitation and reuse of the property is
17 appropriate and beneficial;
18 b. the municipality is qualified to undertake the rehabilitation and
19 reuse of the property; and
20 c. the plan submitted by the municipality represents a realistic and
21 timely plan for the rehabilitation and reuse of the property.

22 The municipality shall take all steps necessary and appropriate to
23 further the rehabilitation and reuse of the property consistent with the
24 plan submitted to the court. In making its findings pursuant to this
25 section, the court may consult with qualified parties, including the
26 Department of Community Affairs, and, upon request by a party in
27 interest, may hold a hearing on the plan.

28 Where either a redevelopment plan pursuant to P.L.1992, c.79
29 (C.40A:12A-1 et seq.) or a neighborhood revitalization plan pursuant
30 to P.L.2001, c.415 (C.52:27D-490 et seq.) has been adopted or
31 approved by the Department of Community Affairs, as appropriate,
32 encompassing the property which is the subject of a complaint, the
33 court shall make a further finding that the proposed rehabilitation and
34 reuse of the property are not inconsistent with any provision of either
35 plan.

36
37 13. (New section) A municipality may exercise its rights under
38 P.L. , c. (C.) (pending before the Legislature as this bill)
39 directly, or may designate a qualified rehabilitation entity to act as its
40 designee for the purpose of exercising the municipality's rights where
41 that designation will further the rehabilitation and reuse of the
42 property consistent with municipal plans and objectives. This
43 designation shall be made by resolution of the municipal governing
44 body, except that in municipalities organized under the "mayor-council
45 plan" of the "Optional Municipal Charter Law," P.L.1950, c.210
46 (C.40:69A-1 et seq.), it shall be made by the mayor. The governing

1 body or mayor, as the case may be, may delegate this authority to the
2 public officer.

3 Regardless of whether a municipality exercises its rights directly or
4 designates a qualified rehabilitation entity pursuant to this section,
5 while in possession of a property pursuant to P.L. , c. (C.)
6 (pending before the Legislature as this bill), a municipality shall
7 maintain, safeguard, and maintain insurance on the property.
8 Notwithstanding the municipality's possession of the property, nothing
9 in P.L. , c. (C.) (pending before the Legislature as
10 this bill) shall be deemed to relieve the owner of the property of any
11 civil or criminal liability or any duty imposed by reason of acts or
12 omissions of the owner.

13

14 14. (New section) a. If a municipality has been granted
15 possession of a property pursuant to section 12 of P.L. , c. (C.)
16 (pending before the Legislature as this bill), that municipality shall be
17 deemed to have an ownership interest in the property for the purpose
18 of filing plans with public agencies and boards, seeking and obtaining
19 construction permits and other approvals, and submitting applications
20 for financing or other assistance to public or private entities.

21 For the purposes of any State program of grants or loans, including
22 but not limited to programs of the Department of Community Affairs
23 and the New Jersey Housing and Mortgage Finance Agency,
24 possession of a property under this section shall be considered legal
25 control of the property.

26 Notwithstanding the granting of possession to a municipality,
27 nothing in P.L. , c. (C.) (pending before the Legislature
28 as this bill) shall be deemed to relieve the owner of the property of any
29 obligation the owner or any other person may have for the payment of
30 taxes or other municipal liens and charges, or mortgages or liens to
31 any party, whether those taxes, charges or liens are incurred before or
32 after the granting of possession.

33 The granting of possession shall not suspend any obligation the
34 owner may have as of the date of the granting of possession for
35 payment of any operating or maintenance expense associated with the
36 property, whether or not billed at the time of the granting of
37 possession.

38 b. The court may approve the borrowing of funds by a
39 municipality to rehabilitate the property and may grant a lien or
40 security interest with priority over all other liens or mortgages other
41 than municipal liens. Prior to granting this lien priority, the court shall
42 find that (1) the municipality sought to obtain the necessary financing
43 from the senior lienholder, which declined to provide such financing
44 on reasonable terms; (2) the municipality sought to obtain a voluntary
45 subordination from the senior lienholder, which refused to provide
46 such subordination; and (3) lien priority is necessary in order to

1 induce another lender to provide financing on reasonable terms.

2 No lien authorized by the court shall take effect unless recorded in
3 the office of the clerk of the county in which the property is located.
4 For the purposes of this section, the cost of rehabilitation shall include
5 reasonable non-construction costs such as architectural fees or
6 construction permit fees customarily included in the financing of the
7 rehabilitation of residential property.

8 c. Where the municipality has been granted possession by the
9 court in the name of the municipality, the municipality may seek the
10 approval of the court to assign its rights to another entity, which
11 approval shall be granted by the court when it finds that: (1) the
12 entity to which the municipality's rights will be assigned is a qualified
13 rehabilitation entity; and (2) the assignment will further the purposes
14 of this section.

15 d. Where a municipality has designated a qualified rehabilitation
16 entity to act on its behalf, the qualified rehabilitation entity shall
17 provide quarterly reports to the municipality on its activities and
18 progress toward rehabilitation and reuse of the property. The
19 municipality or qualified rehabilitation entity, as the case may be, shall
20 provide such reports to the court as the court determines to be
21 necessary. If the court finds that the municipality or its designee have
22 failed to take diligent action toward rehabilitation of the property
23 within one year from the grant of possession, then the court may
24 request the municipality to designate another qualified rehabilitation
25 entity to exercise its rights, or if the municipality fails to do so, may
26 terminate the order of possession and return the property to its owner.

27 e. The municipality shall file a Notice of Completion with the
28 court, and shall also serve a copy on the owner and any mortgage
29 holder or lien holder, at such time as the municipality has determined
30 that no more than six months remain to the anticipated date on which
31 rehabilitation will be complete. This notice shall include an affidavit of
32 the public officer attesting that rehabilitation can realistically be
33 anticipated to be complete within that time period, and a statement
34 setting forth such actions as it plans to undertake to ensure that reuse
35 of the property takes place consistent with the plan.

36
37 15. (New section) An owner may petition for reinstatement of the
38 owner's control and possession of the property at any time after one
39 year from the grant of possession, but no later than 30 days after the
40 municipality has filed a Notice of Completion with the court or, in the
41 event the Notice of Completion is filed within less than one year of the
42 grant of possession, within 30 days after the municipality has filed
43 notice.

44 The court may allow additional time for good cause if that
45 additional time does not materially delay completion of the
46 rehabilitation, place undue hardship on the municipality, or affect any

1 of the terms or conditions under which the municipality has applied for
2 or received financing for the rehabilitation of the property.

3
4 16. (New section) Any petition for reinstatement of the owner's
5 control and possession of the property filed pursuant to section 15 of
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 shall:

8 a. include a plan for completion of the rehabilitation and reuse of
9 the property consistent with the plan previously approved by the court;

10 b. provide legally binding assurances that the owner will comply
11 with all conditions of any grant or loan secured by the municipality or
12 repay those grants or loans in full, at the discretion of the maker of the
13 loan or grant; and

14 c. be accompanied by payment equal to the sum of (1) all
15 municipal liens outstanding on the property; (2) all costs incurred by
16 the municipality in bringing action with respect to the property; (3)
17 any costs incurred by the municipality not covered by grants or loans
18 to be assumed or repaid pursuant to this section; and (4) any costs
19 remaining to complete rehabilitation and reuse of the property, as
20 determined by the public officer, which payment shall be placed in
21 escrow with the Clerk of the Court pending disposition of the petition.
22

23 17. (New section) Prior to the granting of a petition on the part
24 of the owner by the court pursuant to section 15 of P.L. , c. (C.)
25 (pending before the Legislature as this bill), the owner may be required
26 to post a bond or other security in an amount determined by the court,
27 after consultation with the public officer, as likely to ensure that the
28 owner will continue to maintain the property in sound condition. That
29 bond or other security shall be made available to the municipality to
30 make any repair on the property in the event of a code violation which
31 is not corrected in timely fashion by the owner. The bond or other
32 security may be forfeit in full in the event that the owner fails to
33 comply with any requirement imposed as a condition of the
34 reinstatement petition filed pursuant to section 15 of P.L. , c. (C.)
35 (pending before the Legislature as this bill).

36 The owner may seek approval of the court to be relieved of this
37 requirement after five years, which shall be granted if the court finds
38 that the owner has maintained the property in good repair during that
39 period, that no material violations affecting the health and safety of the
40 tenants have occurred during that period, and that the owner has
41 remedied other violations in a timely and expeditious fashion.
42

43 18. (New section) If the owner fails to petition for the
44 reinstatement of control and possession of the property within 30 days
45 after the entity in possession has filed a Notice of Completion or in any
46 event within two years after the initial grant of possession, or if the

1 owner fails to meet any conditions that may be set by the court in
2 granting a reinstatement petition filed pursuant to section 15 of
3 P.L. , c. (C.) (pending before the Legislature as this bill),
4 upon petition from the entity in possession, the court may grant the
5 municipality title or authorize the municipality to sell the property,
6 subject to the provisions of section 19 of P.L. , c. (C.)
7 (pending before the Legislature as this bill).

8
9 19. (New section) a. Where the municipality seeks to gain title
10 to the property, it shall purchase the property for fair market value on
11 such terms as the court shall approve, and may place the proceeds of
12 sale in escrow with the court.

13 The court may authorize the municipality to sell the building free
14 and clear of liens, claims and encumbrances, in which event all such
15 liens, claims and encumbrances shall be transferred to the proceeds of
16 sale with the same priority as existed prior to resale in accordance with
17 the provisions of this section, except that municipal liens shall be paid
18 at settlement.

19 The proceeds of the purchase of the property shall be distributed
20 as set forth in section 20 of P.L. , c. (C.) (pending
21 before the Legislature as this bill).

22 b. The municipality may seek approval of the court to sell the
23 property to a third party when the court finds that such conveyance
24 will further the effective and timely rehabilitation and reuse of the
25 property.

26 c. Upon approval by the court the municipality shall sell the
27 property on such terms and at such price as the court shall approve,
28 and may place the proceeds of sale in escrow with the court. The court
29 shall order a distribution of the proceeds of sale after paying court
30 costs in the order of priority set forth in section 20 of P.L. , c.
31 (C.) (pending before the Legislature as this bill).

32
33 20. (New section) The proceeds paid pursuant to subsection c. of
34 section 19 of P.L. , c. (C.) (pending before the
35 Legislature as this bill) shall be distributed in the following order of
36 priority:

37 a. The costs and expenses of sale;

38 b. Other governmental liens;

39 c. Repayment of principal and interest on any borrowing or
40 indebtedness incurred by the municipality and granted priority lien
41 status pursuant to subsection a. of section 21 of P.L. , c. (C.)
42 (pending before the Legislature as this bill);

43 d. A reasonable development fee to the municipality consistent
44 with the standards for development fees established for rehabilitation
45 programs by the New Jersey Department of Community Affairs or the
46 New Jersey Housing and Mortgage Finance Agency;

1 e. Other valid liens and security interests, in accordance with their
2 priority; and

3 f. The owner.
4

5 21. (New section) a. The public officer, with the approval of the
6 court, may place a lien on the property to cover any costs of the
7 municipality in connection with a proceeding under P.L. , c. (C.)
8 (pending before the Legislature as this bill) incurred prior to the grant
9 by the court of an order of possession under P.L. , c. (C.)
10 (pending before the Legislature as this bill), which may include costs
11 incurred to stabilize or secure the property to ensure that it can be
12 rehabilitated in a cost-effective manner. Any such lien shall be
13 considered a municipal lien for the purposes of R.S.54:5-9 with the
14 rights and status of a municipal lien pursuant thereto.

15 b. With the exception of the holding of special tax sales pursuant
16 to section 24 of P.L. , c. (C.) (pending before the
17 Legislature as this bill), the remedies available under P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall be available to any
19 municipality with respect to any abandoned property, whether or not
20 the municipality has established an abandoned property list as provided
21 in section 36 of P.L.1996, c.62 (C.55:19-55) and whether or not the
22 property has been included on any such list.
23

24 22. (New section) Notwithstanding any provision to the contrary
25 in P.L. , c. (C.) (pending before the Legislature as this
26 bill), a court may in its discretion deny a lienholder or mortgage holder
27 of any or all rights or remedies afforded lienholders and mortgage
28 holders under P.L. , c. (C.) (pending before the
29 Legislature as this bill), if the court finds that the owner of a property
30 subject to any of the provisions of P.L. , c. (C.) (pending
31 before the Legislature as this bill) owns or controls more than a 50%
32 interest in, or effective control of, the lienholder or mortgage holder
33 or that the familial or business relationship between the lienholder or
34 mortgage holder and the owner precludes a separate interest on the
35 part of the lienholder or mortgage holder.
36

37 23. (New section) With respect to any lien placed against any real
38 property pursuant to the provisions of section 1 or section 3 of
39 P.L.1942, c.112 (C.40:48-2.3 or C.40:48-2.5) or section 1 of
40 P.L.1989, c.91 (C.40:48-2.3a), the municipality shall have recourse
41 with respect to the lien against any asset of the owner of the property
42 if an individual, against any asset of any partner if a partnership, and
43 against any asset of any owner of a 10% interest or greater if a
44 corporation.
45

46 24. (New section) Municipalities may hold special tax sales with

1 respect to those properties eligible for tax sale pursuant to
2 R.S.54:5-19 which are also on an abandoned property list established
3 by the municipality pursuant to section 36 of P.L.1996, c.62
4 (C.55:19-55). Municipalities electing to hold a special tax sale shall
5 conduct that sale subject to the following provisions:

6 a. The municipality shall establish criteria for eligibility to bid on
7 properties at the sale, which may include, but shall not be limited to:
8 documentation of the bidder's ability to rehabilitate or otherwise reuse
9 the property consistent with municipal plans and regulations;
10 commitments by the bidder to rehabilitate or otherwise reuse the
11 property, consistent with municipal plans and regulations;
12 commitments by the bidder to take action to foreclose on the tax lien
13 by a date certain; and such other criteria as the municipality may
14 determine are necessary to ensure that the properties to be sold will be
15 rehabilitated or otherwise reused in a manner consistent with the
16 public interest;

17 b. The municipality may establish minimum bid requirements
18 consistent with the provisions of subsection b. of section 1 of
19 P.L.1941, c.232 (C.54:5-114.1) for a special tax sale that may be less
20 than the full amount of the taxes, interest and penalties due, the
21 amount of such minimum bid to be at the sole discretion of the
22 municipality, in order to ensure that the properties to be sold will be
23 rehabilitated or otherwise reused in a manner consistent with the
24 public interest;

25 c. The municipality may combine properties into bid packages, and
26 require that bidders place a single bid on each package, and reject any
27 and all bids on individual properties that have been included in bid
28 packages;

29 d. The municipality may sell properties subject to provisions that,
30 if the purchaser fails to carry out any commitment that has been set
31 forth as a condition of sale pursuant to subsection a. of this section or
32 misrepresents any material qualification that has been established as a
33 condition of eligibility to bid pursuant thereto, then the properties and
34 any interest thereto acquired by the purchaser shall revert to the
35 municipality, and any amount paid by the purchaser to the municipality
36 at the special tax sale shall be forfeit to the municipality;

37 e. In the event there are two or more qualified bidders for any
38 property or bid package in a special tax sale, the municipality may
39 designate the unsuccessful but qualified bidder whose bid was closest
40 to the successful bid as an eligible purchaser;

41 f. In the event that the purchaser of that property or bid package
42 fails to meet any of the conditions of sale established by the
43 municipality pursuant to this section, and their interest in the property
44 or properties reverts to the municipality, the municipality may
45 subsequently designate the entity previously designated as an eligible
46 purchaser as the winning bidder for the property or properties, and

1 assign the tax sale certificates to that entity of the basis of that entity's
2 bid at the special tax sale, subject to the terms and conditions of the
3 special tax sale.

4

5 25. (New section) With respect to any eminent domain
6 proceeding carried out under section 37 of P.L.1996, c.62
7 (C.55:19-56), the fair market value of the property shall be established
8 on the basis of an analysis which determines independently:

9 a. the cost to rehabilitate and reuse the property for such purpose
10 as is appropriate under existing planning and zoning regulations
11 governing its reuse or to demolish the existing property and construct
12 a new building on the site, including all costs ancillary to rehabilitation
13 such as, but not limited to, marketing and legal costs;

14 b. the realistic market value of the reused property after
15 rehabilitation or new construction, taking into account the market
16 conditions particular to the neighborhood or subarea of the
17 municipality in which the property is located; and

18 c. the extent to which the cost exceeds or does not exceed the
19 market value after rehabilitation, or demolition and new construction,
20 and the extent to which any "as is" value of the property prior to
21 rehabilitation can be added to the cost of rehabilitation or demolition
22 and new construction without the resulting combined cost exceeding
23 the market value as separately determined. If the appraisal finds that
24 the cost of rehabilitation or demolition and new construction, as
25 appropriate, exceeds the realistic market value after rehabilitation or
26 demolition and new construction, there shall be a rebuttable
27 presumption in all proceedings under this subsection that the fair
28 market value of the abandoned property is zero, and that no
29 compensation is due the owner.

30

31 26. Section 2 of P.L.1942, c.112 (C.40:48-2.4) is amended to read
32 as follows:

33 2. The following terms whenever used or referred to in this act
34 shall have the following respective meanings for the purposes of this
35 act, unless a different meaning clearly appears from the context:

36 (a) "Governing body" shall mean the council, board of
37 commissioners, trustees, committee, or other legislative body, charged
38 with governing a municipality; provided, that in cities of the second
39 class having a board of fire and police commissioners, the governing
40 body shall mean such board of fire and police commissioners.

41 (b) "Public officer" shall mean the officer, officers, board or body
42 who is or are authorized by ordinances adopted hereunder to exercise
43 the powers prescribed by such ordinances and by [this act] P.L.1942,
44 c.112 (C.40:48-2.3 et seq.). Notwithstanding any other provision of
45 law to the contrary, nothing shall prevent a municipality from
46 designating more than one public officer for different purposes as

1 provided by law.

2 (c) "Public authority" shall mean any housing authority or any
3 officer who is in charge of any department or branch of the
4 government of the municipality, county or State relating to health, fire,
5 building regulations, or to other activities concerning buildings in the
6 municipality.

7 (d) "Owner" shall mean the holder or holders of the title in fee
8 simple.

9 (e) "Parties in interest" shall mean all individuals, associations and
10 corporations who have interests of record in a building and any who
11 are in actual possession thereof.

12 (f) "Building" shall mean any building, or structure, or part
13 thereof, whether used for human habitation or otherwise, and includes
14 any outhouses, and appurtenances belonging thereto or usually
15 enjoyed therewith.

16 (g) "Authority" shall mean the Casino Reinvestment Development
17 Authority established pursuant to section 5 of P.L.1984, c.218
18 (C.5:12-153).

19 (h) "Casino licensee" shall mean any casino licensed pursuant to
20 the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1
21 et seq.).

22 (cf: P.L.1992, c.89, s.1)

23

24 27. Section 35 of P.L.1996, c.62 (C.55:19-54) is amended to read
25 as follows

26 35. For the purposes of this article:

27 "Abandoned property" means

28 [a. real property for which environmental remediation is required
29 by State law, rule or regulation and the condition of which is found or
30 declared by the public officer to be inimical to the welfare, including
31 the economic welfare of the residents of the municipality wherein the
32 real property is located; or

33 b. a building or structure found or declared to be inimical to the
34 welfare, including the economic welfare, of the residents of the
35 municipality wherein the building or structure is located, pursuant to
36 section 1 of P.L.1989, c.91 (C.40:48-2.3a) or unfit for human
37 habitation, occupancy or use pursuant to section 3 of P.L.1942, c.112
38 (C.40:48-2.5), along with the parcel of land upon which the building
39 or structure is situate.] any property that is determined to be
40 abandoned pursuant to P.L. _____, c. _____ (C. _____) (pending before
41 the Legislature as this bill):

42 "Public officer" means a person designated or appointed by the
43 municipal governing body pursuant to section 3 of P.L.1942, c.112
44 (C.40:48-2.5) [who is responsible for determining that a property is
45 abandoned].

46 (cf: P.L.1996, c.62, s.35)

47

1 28. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read
2 as follows:

3 36. a. A qualified municipality that has designated or appointed
4 a public officer pursuant to section 3 of P.L.1942, c.112
5 (C.40:48-2.5), may adopt an ordinance directing the public officer to
6 【undertake an inventory of abandoned property in those areas
7 designated for redevelopment pursuant to the "Local Redevelopment
8 and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.)】 identify
9 abandoned property for the purpose of establishing an abandoned
10 property list throughout the municipality, or within those parts of the
11 municipality as the governing body may designate by resolution. 【The
12 ordinance may direct the public officer to exclude from the inventory
13 of abandoned property that property for which the expense to the
14 municipality of determining the cost of environmental remediation
15 required under State or federal law would be excessive, in the
16 judgment of the municipal governing body.】 Each item of abandoned
17 property 【on the inventory】 so identified shall include the tax block
18 and lot number, the name of the owner of record, if known, and the
19 street address of the lot.

20 b. In those municipalities in which 【an inventory has been
21 conducted】 abandoned properties have been identified in accordance
22 with subsection a. of this section, the public officer shall establish and
23 maintain a list of abandoned property, to be known as the "abandoned
24 property list." The municipality may add properties to the abandoned
25 property list at any time, and may delete properties at any time when
26 the public officer finds that the property no longer meets the definition
27 of an abandoned property. An interested party may request that a
28 property be included on the abandoned property list following that
29 procedure set forth in section 31 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31 An abandoned property shall not be included on the abandoned
32 property list if rehabilitation is being performed in a timely manner, as
33 evidenced by building permits issued and diligent pursuit of
34 rehabilitation work authorized by those permits. A property on which
35 an entity other than the municipality has purchased or taken
36 assignment from the municipality of a tax sale certificate which has
37 been placed on the abandoned property list may be removed in
38 accordance with the provisions of section 29 of P.L. , c. (C.)
39 (pending before the Legislature as this bill).

40 c. 【(1) The Department of Community Affairs shall adopt rules
41 and regulations prescribing guidelines and criteria for determining if a
42 property is inimical to the welfare, including the economic welfare, of
43 the residents of the municipality wherein the building or structure is
44 located, pursuant to section 1 of P.L.1989, c.91 (C.40:48-2.3a) or
45 unfit for human habitation, occupancy or use pursuant to section 3 of
46 P.L.1942, c.112 (C.40:48-2.5), and whether such property is

1 undergoing rehabilitation in a timely manner within the meaning of
2 subsection b. of this section. The public officer shall apply such
3 standards in conducting any inventory pursuant to this section.]

4 [(2)] The Department of Community Affairs in conjunction with
5 the Department of Environmental Protection shall prepare an
6 information bulletin for distribution to every municipality describing
7 the authority of a municipality under existing statutes and regulations
8 to repair, demolish or otherwise deal with abandoned property.

9 d. (1) The public officer, within 10 days of the [completion]
10 establishment of the abandoned property list, or any additions thereto,
11 shall send a notice, by certified mail, return receipt requested, and by
12 regular mail, to the owner of record of every property included on the
13 list and shall cause the list to be published in the official newspaper of
14 the municipality, which publication shall constitute public notice. The
15 published and mailed notices shall identify property determined to be
16 abandoned setting forth the owner of record, if known, the tax lot and
17 block number and street address. The public officer, in consultation
18 with the tax collector, shall also send out a notice by regular mail to
19 any mortgagee, servicing organization, or property tax processing
20 organization that receives a duplicate copy of the tax bill pursuant to
21 subsection d. of R.S.54:4-64. When the owner of record is not known
22 for a particular property and cannot be ascertained by the exercise of
23 reasonable diligence by the tax collector, notice shall not be mailed but
24 instead shall be posted on the property in the manner as provided in
25 section 5 of P.L.1942, c.112 (C.40:48-2.7). The mailed notice shall
26 indicate the factual basis for the public officer's finding that the
27 property is abandoned property as that term is defined in section 35 of
28 P.L.1996, c.62 (C.55:19-54) and the rules and regulations
29 promulgated thereunder, specifying the information relied upon in
30 making such finding. In all cases a copy of the mailed or posted notice
31 shall also be filed by the public officer in the office of the county clerk
32 or register of deeds and mortgages, as the case may be, of the county
33 wherein the property is situate. This filing shall have the same force
34 and effect as a notice of lis pendens under N.J.S.2A:15-6. The notice
35 shall be indexed by the name of the property owner as defendant and
36 the name of the municipality as plaintiff, as though an action had been
37 commenced by the municipality against the owner.

38 (2) The authority or its subsidiaries, as appropriate, may reimburse
39 the municipality for the postage costs and search fees associated with
40 providing notice in accordance with paragraph (1) of this subsection
41 in accordance with procedures and rules promulgated by the
42 Department of Community Affairs.

43 e. An owner or lienholder may challenge the inclusion of his
44 property on the abandoned property list determined pursuant to
45 subsection b. of this section by appealing that determination to the
46 public officer within 30 days of the owner's receipt of the certified
47 notice or 40 days from the date upon which the notice was sent. An

1 owner whose identity was not known to the public officer shall have
2 40 days from the date upon which notice was published or posted,
3 whichever is later, to challenge the inclusion of a property on the
4 abandoned property list. For good cause shown, the public officer
5 shall accept a late filing of an appeal. Within 30 days of receipt of a
6 request for an appeal of the findings contained in the notice pursuant
7 to subsection d. of this section, the public officer shall schedule a
8 hearing for redetermination of the matter. Any property included on
9 the list shall be presumed to be abandoned property unless the owner,
10 through the submission of an affidavit or certification by the property
11 owner averring that the property is not abandoned and stating the
12 reasons for such averment, can demonstrate that the property was
13 erroneously included on the list. The affidavit or certification shall be
14 accompanied by supporting documentation, such as but not limited to
15 photographs, repair invoices, bills and construction contracts. The
16 sole ground for appeal shall be that the property in question is not
17 abandoned property as that term is defined in section 35 of P.L.1996,
18 c.62 (C.55:19-54). The public officer shall decide any timely filed
19 appeal within 10 days of the hearing on the appeal and shall promptly,
20 by certified mail, return receipt requested, and by regular mail, notify
21 the property owner of the decision and the reasons therefor.

22 f. The property owner may challenge an adverse determination of
23 an appeal with the public officer pursuant to subsection e. of this
24 section, by instituting, in accordance with the New Jersey Court Rules,
25 a summary proceeding in the Superior Court, Law Division, sitting in
26 the county in which the property is located, which action shall be tried
27 de novo. Such action shall be instituted within 20 days of the date of
28 the notice of decision mailed by the public officer pursuant to
29 subsection e. of this section. The sole ground for appeal shall be that
30 the property in question is not abandoned property as that term is
31 defined in section 35 of P.L.1996, c.62 (C.55:19-54). The failure to
32 institute an action of appeal on a timely basis shall constitute a
33 jurisdictional bar to challenging the adverse determination, except that,
34 for good cause shown, the court may extend the deadline for
35 instituting the action.

36 g. The public officer shall promptly remove any property from the
37 abandoned property list that has been determined not to be abandoned
38 on appeal.

39 h. The abandoned property list shall become effective, and the
40 municipality shall have the right to pursue any legal remedy with
41 respect to properties on the abandoned property list at such time as
42 any one property has been placed on the list in accordance with the
43 provisions of this section, upon the expiration of the period for appeal
44 with respect to that property or upon the denial of an appeal brought
45 by the property owner.

46 (cf: P.L.1996, c.62, s.36)

47

1 29. (New section) If a property, which an entity other than the
2 municipality has purchased or taken assignment from the municipality
3 of a tax sale certificate, is placed on the abandoned property list, the
4 property shall be removed from the list if the owner of the certificate
5 pays all municipal taxes and liens due on the property within 30 days
6 after the property is placed on the list; provided, however, that if the
7 owner of the certificate fails to initiate foreclosure proceedings within
8 six months after the property was first placed on the list, the property
9 shall be restored to the abandoned property list.

10
11 30. (New section) The voters of any municipality which has not
12 adopted an ordinance directing the public officer to create an
13 abandoned property list pursuant to section 36 of P.L.1996, c.62
14 (C.55:19-55) within one year after the effective date of P.L. , c.
15 (C.)(pending before the Legislature as this bill) may propose an
16 ordinance directing the public officer to identify abandoned property
17 for the purpose of establishing an abandoned property list in
18 accordance with the provisions of section 36 of P.L.1996, c.62 and
19 submit it to the municipal council by a petition signed by a number of
20 the legal voters of the municipality equal in number to five percent of
21 the total votes cast in the last election at which municipal officials
22 were elected, but in no event fewer than 100 legal voters in a
23 municipality with a population of 1,000 persons or more. This power
24 of initiative shall be subject to the restrictions and procedures set forth
25 in Article F. of P.L.1950, c.210 (C.40:69A-184 et seq.).

26
27 31. (New section) a. Any interested party may submit in writing
28 a request to the public officer that a property be included on the
29 abandoned property list prepared pursuant to section 36 of P.L.1996,
30 c.62 (C.55:19-55), specifying the street address and block and lot
31 number of the property to be included, and the grounds for its
32 inclusion. Within 30 days of receipt of any such request, the public
33 officer shall provided a written response to the party, either indicating
34 that the property will be added to the list of abandoned properties or,
35 if not, the reasons for not adding the property to the list. For the
36 purposes of this section, "interested party" shall include any resident
37 of the municipality, any owner or operator of a business within the
38 municipality or any organization representing the interests of residents
39 or engaged in furthering the revitalization and improvement of the
40 neighborhood in which the property is located.

41 b. Any interested party may participate in any redetermination
42 hearing held by the public officer pursuant to subsection e. of section
43 36 of P.L.1996, c.62 (C.55:19-55). Upon written request by any
44 interested party, the public officer shall provide the party with at least
45 20 days' notice of any such hearing. The party shall provide the public
46 officer with notice at least 10 days before the hearing of its intention
47 to participate, and the nature of the testimony or other information

1 that is proposes to submit at the hearing.

2

3 32. R.S.54:5-86 is amended to read as follows:

4 54:5-86. a. When the municipality is the purchaser of a tax sale
 5 certificate, the municipality, or its assignee or transferee, may, at any
 6 time after the expiration of the term of six months from the date of
 7 sale, institute an action to foreclose the right of redemption. Except
 8 as provided in subsection a. of section 39 of P.L.1996, c.62
 9 (C.55:19-58) or as provided in subsection b. of this section, for all
 10 other persons that do not acquire a tax sale certificate from a
 11 municipality, an action to foreclose the right of redemption may be
 12 instituted at any time after the expiration of the term of two years from
 13 the date of sale of the tax sale certificate. On instituting the action the
 14 right to redeem shall exist and continue until barred by the judgment
 15 of the Superior Court.

16 b. Any person holding a tax sale certificate on a property that
 17 meets the definition of abandoned property as set forth in P.L. c.
 18 (C. _____) (pending before the Legislature as this bill), either at the
 19 time of the tax sale or thereafter, may at any time file an action with
 20 the Superior Court in the county wherein said municipality is situate,
 21 demanding that the right of redemption on such property be barred,
 22 pursuant to R.S.54:5-77.

23 c. Any person holding a tax sale certificate on a property that
 24 meets the definition of abandoned property as set forth in P.L. c.
 25 (C. _____) (pending before the Legislature as this bill), either at the
 26 time of the tax sale or thereafter, may enter upon that property at any
 27 time after written notice to the owner by certified mail return receipt
 28 requested in order to make repairs, or abate, remove or correct any
 29 condition harmful to the public health, safety and welfare, or any
 30 condition that is materially reducing the value of the property.

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

34 (cf: P.L.1996, c.62, s.41)

35

36 33. This act shall take effect immediately.

37

38

39

40 Expands municipal power to address abandoned properties.

ASSEMBLY, No. 2543

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 17, 2002

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

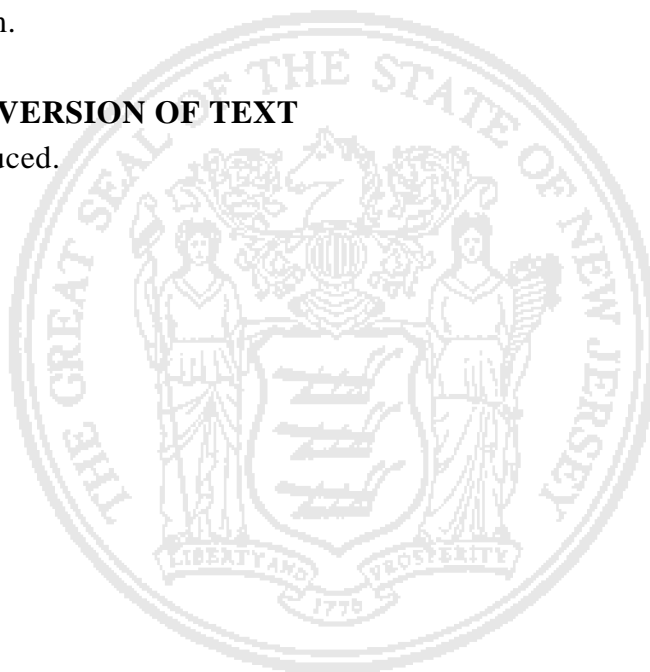
Assemblyman Eagler, Assemblywoman Cruz-Perez, Assemblymen Hackett, McKeon, Assemblywoman Quigley, Assemblymen Gusciora and Van Drew

SYNOPSIS

Concerns municipal authority to deal with abandoned properties; establishes pilot program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/24/2003)

1 AN ACT concerning property abandonment and amending and
2 supplementing P.L.1996, c. 62 (C.55:19-20 et al.).

3

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

6

7 1. (New section) Sections 1 through 7 of this act shall be known
8 and may be cited as the "Abandoned Properties Rehabilitation Act."

9

10 2. (New section) The Legislature finds and declares that:

11 a. Abandoned properties, particularly those located within urban
12 areas or in close proximity to occupied residences and businesses,
13 create a wide range of problems for the communities in which they are
14 located, fostering criminal activity and creating public health problems
15 and diminishing the quality of life for residents and business operators
16 in those areas;

17 b. Abandoned properties diminish the property values and have a
18 negative effect on the quality of life of adjacent property owners,
19 increasing the risk of property damage through arson and vandalism
20 and discouraging neighborhood stability and revitalization;

21 c. For these reasons, abandoned properties are presumptively
22 considered to be nuisances, in view of their negative effects on nearby
23 properties and the residents or users of those properties;

24 d. The continued presence of abandoned properties in New Jersey's
25 communities acts as a significant barrier to urban revitalization and to
26 the regeneration of the state's urban centers;

27 e. Abandonment is a local problem that must be addressed locally
28 and the most important role of state government is to provide local
29 governments, local community organizations and citizens with the
30 tools to address the problem;

31 f. The responsibility of a property owner to maintain a property in
32 sound condition and prevent it from becoming a nuisance to others
33 extends to properties which are not in use and that 'demolition by
34 neglect', leading to the deterioration and loss of the property or failure
35 by an owner to comply with legitimate orders to demolish, stabilize or
36 otherwise repair his or her property creates a presumption that the
37 owner has abandoned the property and relinquished title rights;

38 g. Many abandoned buildings still have potential value for
39 residential and other uses and such buildings should be preserved
40 rather than demolished, wherever feasible, particularly buildings that
41 have historic or architectural value, or contribute to maintaining the
42 character of neighborhoods or streetscapes, or both, as the case may
43 be.

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 3. (New section) As used in this act:

2 "Abandoned property" means any property that is not legally
3 occupied in whole or large part and which meets any one of the
4 following additional criteria:

5 a. The property has not been legally occupied for a period of six
6 months, is in need of rehabilitation in the judgment of the public
7 officer, and no rehabilitation has taken place during that six month
8 period;

9 b. The property is eligible for tax foreclosure pursuant to any
10 provisions of the "tax sale law," R.S.54:5-1 et seq., or the provisions
11 of P.L. , c. (C.) (pending before the Legislature as this bill);

12 c. The property has been determined to be a nuisance by the public
13 officer for good and valid reasons, which may include but shall not be
14 limited to the following:

15 (1) the property has been found to be unfit for human habitation,
16 occupancy or use, whether for residential or nonresidential purposes,
17 as appropriate;

18 (2) the condition and vacancy of the property, taking into account
19 the nature of the structure and its proximity to other structures,
20 increases the risk of fire to the property and adjacent properties;

21 (3) the property has been used at any time during the six month
22 period prior to the public officer's determination for illegal purposes,
23 including the consumption or sale of illegal substances, and the
24 conditions resulting in that use have not been corrected;

25 (4) the owner has failed to secure the property, and it is subject to
26 unauthorized entry leading to potential health and safety hazards, or
27 the municipality has secured the property in order to prevent such
28 hazards after the owner has failed to do so;

29 (5) the presence of vermin, or the accumulations of debris, uncut
30 vegetation or physical deterioration of the structure or grounds have
31 led to potential health and safety hazards, including the risk of fire;

32 (6) the dilapidated appearance or other condition of the property
33 materially affects the welfare, including the economic welfare, of the
34 residents of the area in close proximity to the property.

35 "Public officer" means either the person designated by the
36 municipality pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5)
37 or any person designated pursuant to section 35 of P.L.1996, c.62
38 (C.55:19-54), (pending before the Legislature as Section 8 of this bill)
39 as determined by the municipality;

40 "Qualified rehabilitation entity" means an entity organized under the
41 New Jersey Statutes which shall have as one of its purposes the
42 construction or rehabilitation of residential buildings, the provision of
43 affordable housing, the restoration of abandoned property, the
44 revitalization and improvement of urban neighborhoods, or similar
45 purpose, and which shall be adequately qualified, by virtue of its staff,
46 professional consultants, financial resources, and prior activities set

1 forth in P.L. , c. (C.) (pending before the Legislature as this
2 bill).

3
4 4. (New section) a. When the public officer determines that a
5 property is abandoned and is a nuisance as defined in section 3 of
6 P.L. , c. (C.) (pending before the Legislature as this bill) and
7 the municipality finds that the nuisance conditions created by the
8 property can be abated only through immediate demolition,
9 stabilization or other action affecting the property, the public officer
10 designated pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill) may seek an order from Superior Court that the
12 owner of the property:

13 (1) Demolish, stabilize or otherwise repair the property within 14
14 days, whichever is determined to be necessary by the public officer;

15 (2) Provide the municipality with an amount determined by the
16 public officer to be 125 percent of the projected cost of demolition,
17 stabilization or such other repairs as determined to be necessary by the
18 public officer, within seven days; or

19 (3) Secure the property, post bond equal to 125 percent of the
20 amount determined by the public officer to be the projected cost of
21 rehabilitation and complete rehabilitation of the property within 90
22 days, or such additional period as may be determined to be reasonable
23 by the public officer. In addition, the public officer may require that
24 the owner furnish proof that the owner has purchased liability
25 insurance of at least \$300,000 and registered the property with the
26 municipality.

27 b. If the owner fails to comply with the court order, the public
28 officer may take such action as may be appropriate to abate the
29 conditions of the property, and may seek a default judgment from
30 Superior Court granting the municipality provisional title to the
31 property, subject to the further provisions of this section;

32 c. Subsequent to the grant of a default judgment, the municipality
33 shall notify all holders of liens on the property by certified or
34 registered mail, mailed to their last known address and posted on the
35 property, (1) that the municipality has been granted provisional title to
36 the property by Superior Court; and that (2) any lien holder shall be
37 granted title in lieu of the municipality if such lien holder, within 30
38 days of receiving notice, provides the public officer with payment
39 equal to (a) all municipal liens outstanding on the property, (b) all
40 costs incurred by the municipality in bringing action with respect to
41 the property; and (c) any costs remaining to abate the conditions of the
42 property as determined by the public officer. The municipal notice to
43 lienholders shall set forth the total amount necessary to satisfy these
44 conditions as of the date of the notice. If more than one lienholder
45 provides timely payment to the public officer, the lienholder with
46 priority shall be certified by the public officer, and the payments

1 provided by other lienholders shall be refunded to them.

2 d. The municipality shall move in Superior Court to convey title
3 to the lienholder certified by the public officer;

4 e. In the event no lienholder provides timely payment to the
5 municipality, the public officer may seek a judgment from Superior
6 Court granting full and absolute title to the property to the
7 municipality, and extinguishing all liens other than governmental ones
8 on the property;

9 f. The remedies available under this section shall be available to any
10 municipality with respect to any abandoned property, whether or not
11 it has established an abandoned property list as provided in section 36
12 of P.L.1996, c.62 (C.55:19-55), or whether the property is included
13 on any such list.

14

15 5. (New section) a. When a municipality or a qualified
16 rehabilitation entity, as defined herein, shall find that an abandoned
17 property is in need of rehabilitation and that the owner has failed to
18 take any action to further the rehabilitation of the property for a period
19 of at least six months prior to the bringing of a petition as set forth in
20 this section, the municipality or qualified entity may bring a petition to
21 Superior Court seeking an order granting it possession of the property
22 for the purpose of pursuing its rehabilitation and reuse as set forth in
23 this section. Failure by the owner to submit plans for rehabilitation to
24 the municipality or to obtain building permits for rehabilitation from
25 the municipality within that six month period shall be deemed prima
26 facie evidence that the owner has failed to take any action to further
27 the rehabilitation of the property;

28 b. When the petition is brought by the municipality, it shall include
29 a certification by the public officer that the property is abandoned;
30 when the petition is brought by any other entity, it shall either include
31 such certification or shall include such evidence sufficient to show
32 that, notwithstanding the lack of action by the public officer, the
33 property is abandoned;

34 c. At least 30 days before filing the petition, the municipality or
35 qualified entity shall provide notice to parties in interest of the
36 property, by certified or registered mail, mailed to their last known
37 address and posted on the property. All known parties in interest shall
38 be named as defendants in the petition;

39 d. (1) The owner can defend against the order by submitting a plan
40 for the rehabilitation and reuse of the property, including milestones
41 for performance of key steps leading to rehabilitation and reuse, which
42 plan is found by the public officer to be realistic and expeditious, and
43 posting a bond equal to 125 percent of the amount determined by the
44 public officer to be the projected cost of rehabilitation;

45 (2) No defense that does not include such a plan and bond shall be
46 accepted by the court; provided, however, that the court can reject the

1 plan and bond if it finds that the plan does not represent a realistic and
2 expeditious means of ensuring the rehabilitation of the property or that
3 the owner or his representatives or agents, or both, lack the
4 qualifications, background or other criteria necessary to ensure that
5 the plan will be carried out successfully;

6 (3) If the court approves the owner's plan, it shall appoint the
7 entity bringing the petition to act as monitor of the owner's
8 compliance. If the owner fails to carry out any step in the approved
9 plan, the entity bringing the petition shall notify the court, which may
10 order the bond forfeit, grant the entity possession of the property, and
11 authorize the entity to use the proceeds of the bond for rehabilitation
12 of the property.

13 e. If the owner fails to successfully defend against the petition, any
14 party in interest may seek to be designated in possession of the
15 property by submitting a plan and posting a bond meeting the
16 same conditions as set forth in subsection a. of section 4 of P.L. , c.
17 (C.) (pending before the Legislature as this bill). If the court
18 approves any such party in interest's plan, it shall designate said party
19 to be in possession of the property for purposes of ensuring its
20 rehabilitation and reuse and shall appoint the entity bringing the
21 petition to act as monitor of the party's compliance. If the party in
22 possession fails to carry out any step in the approved plan, the entity
23 bringing the petition shall notify the court, which may order the bond
24 forfeit, grant the entity possession of the property, and authorize the
25 entity to use the proceeds of the bond for rehabilitation of the
26 property.

27 f. The entity bringing the petition shall submit a plan which shall
28 present a realistic and timely procedure for the rehabilitation and reuse
29 of the property, which may be for any purpose appropriate for the
30 property and beneficial to the surrounding area. If no party in interest
31 who is a lienholder meets the conditions of subsection c. of section 4
32 of P.L. , c. (C.) (pending before the Legislature as this bill), and the
33 court finds that the proposed reuse of the property is appropriate and
34 beneficial, the court shall grant the entity possession of the property,
35 which entity shall take all steps necessary and appropriate to further
36 the rehabilitation and reuse of the property consistent with the plan
37 submitted to the court. In making its determination that the proposed
38 reuse of the property is appropriate and beneficial, the court may
39 consult with qualified parties, including but not limited to the
40 municipal planner and representatives of non-profit entities in the area
41 in which the property is located.

42 g. The entity in possession shall be deemed to have an ownership
43 interest in the property for purposes of filing plans with public
44 agencies and boards, seeking and obtaining building permits and other
45 approvals, and submitting applications for financing or other assistance
46 to public or private entities. The entity shall have authority to borrow

1 funds and place liens on the property which shall have priority over
2 any liens other than governmental liens. For purposes of any State of
3 New Jersey program of grants or loans, including but not limited to
4 programs of the Department of Community Affairs and the Housing
5 and Mortgage Finance Agency, possession of a property under this
6 section shall be considered legal control of the property.

7 h. When the municipality has been designated the entity in
8 possession, it may seek the approval of the court to assign its rights to
9 another entity in possession, which approval shall be granted by the
10 court when it finds that (1) the entity to which the municipality's rights
11 will be assigned is a qualified rehabilitation entity as defined in
12 P.L. , c. (C.) (pending before the Legislature as this bill), and (2)
13 the assignment will further the purposes of this section.

14 i. The entity in possession shall provide quarterly reports to the
15 court, and if an entity other than the municipality, to the municipality,
16 on its activities and progress toward rehabilitation and reuse of the
17 property. If the court finds that the entity in possession has failed to
18 take diligent action toward rehabilitation of the property within one
19 year from the grant of possession, the court may terminate the order
20 of possession, and return the property to its owner or vest possession
21 in another entity.

22 j. The owner can petition for restoration of the property at any
23 time after one year from the grant of possession, but no later than 30
24 days after the entity in possession has filed a Notice of Completion
25 with the court. Any petition for return of the property shall (a) include
26 a plan for completion of the rehabilitation and reuse of the property,
27 consistent with the plan previously approved by the court, (b) provide
28 legally binding assurances that the owner will comply with all
29 conditions of any grant or loan secured by the entity in possession, or
30 repay any such grants or loans in full, at the discretion of the maker of
31 the loan or grant, and (c) be accompanied by payment equal to the sum
32 of (i) all municipal liens outstanding on the property, (ii) all costs
33 incurred by the municipality in bringing action with respect to the
34 property, and (iii) any costs remaining to complete rehabilitation and
35 reuse of the property, as determined by the public officer, which
36 payment shall be placed in escrow with the Clerk of the Court pending
37 disposition of the petition.

38 k. The entity in possession shall file a Notice of Completion with
39 the court, and shall also serve a copy on the owner, at such time that
40 the entity has determined that no more than six months remain to the
41 anticipated date on which rehabilitation will be complete. Such notice
42 shall include an affidavit of the public officer attesting that rehabilitation
43 is realistically anticipated to be complete within that time period, and
44 a statement setting forth such actions as the entity plans to undertake
45 to ensure that reuse of the property takes place consistent with the
46 plan.

1 1. If the owner fails to petition for return of the property within 30
2 days after the entity in possession has filed a Notice of Completion, or
3 in any event within two years after the initial grant of possession, or
4 fails to meet any conditions, including those set forth in subsection i.
5 of this section, that may be set by the court for restoration of property,
6 upon petition from the entity in possession, the court may grant the
7 entity title, and extinguish all liens other than governmental liens. The
8 entity in possession may seek approval of the court for, and the court
9 may approve, conveyance of title to a third party rather than to the
10 entity in possession, when the court finds that such conveyance will
11 provide for the benefit of the public interest in fostering effective and
12 timely rehabilitation and reuse of the property.

13 m. Upon petition by the entity in possession, but at the sole
14 discretion of the municipal governing body, a municipality shall be
15 authorized to forgive any outstanding municipal liens on the property,
16 including but not limited to property taxes, sewer and water charges,
17 and special assessments, and shall further be authorized prospectively
18 or retrospectively to waive any taxes accrued during the period that
19 the entity is in possession, provided, however, that in the event the
20 owner obtains restoration of the property as set forth in subsection i.
21 of this section all outstanding taxes and liens as of the date of
22 restoration shall be due and payable in full, notwithstanding any
23 agreement entered into between the municipality and the entity in
24 possession under this section.

25 n. The remedies available under this section shall be available to
26 any municipality or qualified rehabilitation entity with respect to any
27 abandoned property, whether or not the municipality has established
28 an abandoned property list as provided in section 36 of P.L.1996, c.62
29 (C.55:19-55), or whether the property is listed on any such list.

30
31 6. (New section) a. Any municipality may create a Municipal
32 Land Reclamation Agency, for the purpose of vesting a single entity
33 with the comprehensive ability to address municipal property
34 acquisition and disposition issues, which agency can be (1) the agency
35 of municipal government authorized to exercise redevelopment powers
36 pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.), including a
37 Redevelopment Agency, Housing Authority, or a division or
38 department of the municipal government, (2) any other existing agency
39 of municipal government clearly charged with the mission of furthering
40 housing, economic development, or neighborhood revitalization, which
41 need not be the agency authorized to exercise redevelopment powers;
42 (3) an existing agency established within State or county government,
43 including a County Improvement Authority and the New Jersey
44 Redevelopment Authority, authorized by statute to exercise land
45 development or redevelopment powers; (4) a qualified nonprofit
46 entity, as defined herein; or (5) a new entity created by the

1 municipality, which may be established as a department of municipal
2 government, an independent public agency with a board of no less than
3 five and no more than nine commissioners appointed by the mayor to
4 be known as the(name of municipality)..... Land Reclamation
5 Agency, or a not-for-profit corporation.

6 b. The agency shall be established by ordinance, which shall specify
7 (1) the entity that is to be designated a Municipal Land Reclamation
8 Agency, (2) the specific powers and responsibilities that the agency
9 will exercise, and (3) if the agency is other than a division or
10 department of municipal government, the nature of any financial
11 agreements between the municipality and the agency. The provisions
12 of paragraphs (2) and (3) of this subsection may be amended by the
13 municipal governing body by ordinance at any time.

14 c. The municipality may assign any tax or other lien held by the
15 municipality to the agency, and may convey to the agency without
16 public bidding and at nominal cost any property owned by the
17 municipality.

18 d. The ordinance establishing the agency or any subsequent
19 amendatory ordinance may grant any or all of the following powers
20 and assign any or all of the following municipal authorities and powers
21 to the agency, at the sole discretion of the governing body:

22 (1) To foreclose on behalf of the municipality on any tax or other
23 liens assigned to the agency.

24 (2) To accept properties by gift on behalf of the municipality and
25 to acquire properties on behalf of the municipality through negotiation
26 and voluntary conveyance.

27 (3) To extinguish municipal liens in whole or part on properties
28 held by the agency.

29 (4) To exercise the power of eminent domain with respect to
30 abandoned properties pursuant to paragraph (2) of subsection c. of
31 section 37 of P.L.1996, c.62 (C.55:19-56).

32 (5) To exercise the power of eminent domain with respect to other
33 properties, but only pursuant to a resolution precedent specifying the
34 property or properties to be acquired adopted by the local governing
35 body.

36 (6) To sell or lease properties pursuant to the provisions of the
37 "Local Lands and Building Law," P.L.1971, c.199 (C.40A:12-1 et
38 seq.) or if in a redevelopment area, pursuant to the provisions of the
39 "Local Redevelopment and Housing Law," P.L.1992, c.79
40 (C.40A:12A-1 et seq.) at market value or at nominal cost, with or
41 without public bidding as provided by law.

42 (7) To administer on behalf of the municipality a program for
43 homesteading of abandoned properties pursuant to the provisions of
44 sections 13 through 20 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46 (8) To sell or lease properties at market value or at nominal cost,

1 with or without public bidding, to private individuals for the purposes
2 of rehabilitating abandoned property for owner occupancy pursuant to
3 the provisions of sections 13 through 20 of P.L. , c. (C.) (pending
4 before the Legislature as this bill)

5 (9) To enter into option agreements, contracts of sale, and other
6 agreements to acquire or to convey property.

7 (10) To act as or to designate the municipal public officer with
8 respect to carrying out any or all of the provisions of
9 P.L. , c. (C.) (pending before the Legislature as this bill) or the
10 provisions of sections 35 to 40 of P.L.1996, c.62 (C.55:19-54 through
11 C.55:19-59), including but not limited to preparing and maintaining an
12 abandoned property list pursuant to the provisions of section 36 of
13 P.L.1996, c.62 (C.55:19-55).

14 (11) To maintain, demolish, repair or rehabilitate any properties
15 held by the agency.

16 (12) To carry out environmental investigations and remediation on
17 any property held by the agency.

18 (13) To seek, obtain and disburse funds from public and private
19 sources to carry out its responsibilities pursuant to the ordinance.

20 (14) To borrow funds to carry out its responsibilities pursuant to
21 the ordinance; provided, however, that no such borrowing shall be an
22 obligation of the municipality unless separately authorized by action
23 of the municipal governing body.

24 (15) To grant short-term tax abatements, including the tax
25 abatements provided in section 17 of P.L. , c. (C.) (pending before
26 the Legislature as this bill), subject to the provisions of a municipal
27 ordinance adopted pursuant to section 4 of P.L.1991, c.441
28 (C.40A:21-4) or the ordinance adopted pursuant to section 16 of
29 P.L. , c. (C.) (pending before the Legislature as this bill), with
30 respect to properties held by and disposed of by the agency.

31 (16) To exercise such other powers and authorities that the
32 municipal governing body may determine are necessary or desirable for
33 the agency to carry out its mission, and are not inconsistent with the
34 provisions of any other law.

35 e. With respect to each and every municipal power assigned to the
36 agency, the ordinance shall specify the decision-making authority for
37 the exercise of that power, which may be, as deemed appropriate, a
38 municipal department head, the mayor of the municipality, a board of
39 commissioners of an independent agency or authority, the board of
40 directors of a nonprofit entity, the chief executive officer of an
41 independent agency, authority or nonprofit entity, or the municipal
42 governing body.

43 f. A Municipal Land Reclamation Agency shall have the same
44 status as the municipality with respect to any provisions of State law
45 governing environmental remediation and environmental liability.

46 g. A Municipal Land Reclamation Agency shall have the same

1 status as the municipality with respect to any funding provided by any
2 agency of State government for which municipalities are eligible,
3 provided, however, that the agency may not seek any funds that place
4 any financial or administrative obligation on the municipality without
5 a resolution from the local governing body authorizing the application.

6 h. A Municipal Land Reclamation Agency shall not dispose of any
7 property for a use not consistent with the municipal master plan, or
8 any redevelopment plan or neighborhood revitalization plan adopted
9 by the municipality, and shall consult with neighborhood and
10 community organizations with respect to its property disposition
11 activities.

12 i. A Municipal Land Reclamation Agency, if other than the
13 municipal redevelopment agency created pursuant to the "Local
14 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
15 seq.), shall not exercise any power granted it within any
16 redevelopment area where the municipality has previously granted that
17 same power to the redevelopment agency, unless the board of
18 commissioners of the redevelopment agency has adopted a resolution
19 authorizing the Municipal Land Reclamation Agency to exercise such
20 power within the redevelopment area.

21 j. The agency shall retain such percentage of the funds it raises
22 through disposition of property or exercise of its other powers in order
23 to carry out its responsibilities as shall be determined by the governing
24 body and set forth in the ordinance establishing the agency.

25
26 7. (New Section) a. In any municipality which has created a
27 municipal historic commission by ordinance, the municipality shall not
28 demolish any abandoned structure until it has referred the proposed
29 demolition to the commission for its review and comment,

30 b. The commission shall provide its comments to the public officer
31 no more than 45 days after receiving the referral, during which period
32 the municipality shall take no action to demolish the property.

33 c. When the public officer has determined, on the basis of the
34 condition of the structure, that an emergency exists requiring the
35 immediate demolition of the structure, the public officer shall be
36 authorized to take immediate action, and shall not be required to refer
37 the proposed demolition to the commission.

38
39 8. Section 35 of P.L.1996, c.62 (C.55:19-54) is amended to read
40 as follows:

41 35. For the purposes of this article and for the purposes of P.L.,
42 c. (C.) (pending before the Legislature as this bill):

43 ["Abandoned property" means

44 a. real property for which environmental remediation is required by
45 State law, rule or regulation and the condition of which is found or
46 declared by the public officer to be inimical to the welfare, including

1 the economic welfare of the residents of the municipality wherein the
2 real property is located; or

3 b. a building or structure found or declared to be inimical to the
4 welfare, including the economic welfare, of the residents of the
5 municipality wherein the building or structure is located, pursuant to
6 section 1 of P.L.1989, c.91 (C.40:48-2.3a) or unfit for human
7 habitation, occupancy or use pursuant to section 3 of P.L.1942, c.112
8 (C.40:48-2.5), along with the parcel of land upon which the building
9 or structure is situate.]

10 "Abandoned property" means any property that is not legally
11 occupied in whole or large part, and which meets any one of the
12 following additional criteria:

13 a. The property has not been legally occupied for a period of six
14 months, is in need of rehabilitation in the judgment of the public
15 officer, and has not been the subject of rehabilitation during that six
16 month period:

17 b. The property is eligible for tax foreclosure pursuant to any of
18 the provisions of the "tax sale law," R.S.54:5-1 et seq. or the
19 provisions of P.L. , c. (pending before the Legislature as this bill):

20 c. The property has been determined to be a nuisance by the public
21 officer for good and valid reasons, which may include but shall not be
22 limited to the following:

23 (1) The property has been found to be unfit for human habitation,
24 occupancy or use, whether for residential or nonresidential purposes,
25 as appropriate;

26 (2) The condition and vacancy of the property, taking into account
27 the nature of the structure and its proximity to other structures,
28 increases the risk of fire to the property and adjacent properties;

29 (3) The property has been used at any time during the six month
30 period prior to the public officer's determination for illegal purposes,
31 including the consumption or sale of illegal substances, and the
32 conditions resulting in that use have not been corrected;

33 d. The owner has failed to secure the property, and it is subject to
34 unauthorized entry leading to potential health and safety hazards; or,
35 the municipality has secured the property in order to prevent such
36 hazards after the owner has failed to do so;

37 e. The presence of vermin, accumulations of debris, uncut
38 vegetation, or physical deterioration of the structure or grounds have
39 led to potential health and safety hazards, including the risk of fire;

40 f. The dilapidated appearance or other condition of the property
41 materially affects the welfare, including the economic welfare, of the
42 residents of the area in close proximity to the property.

43 "Public officer" with respect to any of the provisions of this article
44 and for any of the purposes of P.L. , c. (pending before the Legislature
45 as this bill) means either (a) a person designated or appointed by the
46 municipal governing body pursuant to section 3 of P.L.1942, c.112

1 (C.40:48-2.5 [who is responsible for determining that a property is
2 abandoned] or (b) such other person qualified to carry out the
3 responsibilities of the public officer designated or appointed by
4 resolution of the municipal governing body, or appointed by a
5 Municipal Land Reclamation Agency pursuant to authority granted it
6 by the municipal governing body, who need not be an employee of the
7 municipality or a municipal agency, except that in municipalities
8 organized under the "mayor-council plan" of the "Optional Municipal
9 Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.) the officer may
10 be designated by the mayor. Notwithstanding any other provision of
11 law, nothing shall prevent a municipal governing body, or the mayor
12 when appropriate, from designating more than one public officer for
13 different purposes as provided by law.

14 (cf: P.L.1996, c.62, s.35)

15

16 9. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read
17 as follows:

18 36. a. A qualified municipality that has designated or appointed a
19 public officer pursuant to section [3 of P.L.1942, c.112
20 (C.40:48-2.5)] 35 of P.L.1996, c.62 (C.55:19-54) (pending before the
21 Legislature as section 8 of this bill), may adopt an ordinance directing
22 the public officer to undertake an inventory of abandoned property [in
23 those areas designated for redevelopment pursuant to the "Local
24 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
25 seq.)] throughout the municipality, or those parts of the municipality
26 as the governing body may designate by resolution. The ordinance
27 may direct the public officer to exclude from the inventory of
28 abandoned property that property for which the expense to the
29 municipality of determining the cost of environmental remediation
30 required under State or federal law would be excessive, in the
31 judgment of the municipal governing body. Each item of abandoned
32 property on the inventory shall include the tax block and lot number,
33 the name of the owner of record, if known, and the street address of
34 the lot.

35 b. In those municipalities in which an inventory has been conducted
36 in accordance with subsection a. of this section, the public officer shall
37 maintain a list of abandoned property, to be known as the "abandoned
38 property list." An abandoned property shall not be included on the
39 abandoned property list if rehabilitation is being performed in a timely
40 manner, as evidenced by building permits issued and diligent pursuit
41 of rehabilitation work authorized by said permits.

42 c. [(1) The Department of Community Affairs shall adopt rules
43 and regulations prescribing guidelines and criteria for determining if a
44 property is inimical to the welfare, including the economic welfare, of
45 the residents of the municipality wherein the building or structure is
46 located, pursuant to section 1 of P.L.1989, c.91 (C.40:48-2.3a) or

1 unfit for human habitation, occupancy or use pursuant to section 3 of
2 P.L.1942, c.112 (C.40:48-2.5), and whether such property is
3 undergoing rehabilitation in a timely manner within the meaning of
4 subsection b. of this section. The public officer shall apply such
5 standards in conducting any inventory pursuant to this section.]
6 (Deleted by amendment, P.L. _____, c. _____ (pending before the
7 Legislature as this bill))

8 (2) The Department of Community Affairs in conjunction with the
9 Department of Environmental Protection shall prepare an information
10 bulletin for distribution to every municipality describing the authority
11 of a municipality under existing statutes and regulations to repair,
12 demolish or otherwise deal with abandoned property.

13 d. (1) The public officer, within 10 days of the completion of the
14 abandoned property list, shall send a notice, by certified mail, return
15 receipt requested, and by regular mail, to the owner of record of every
16 property included on the list and shall cause the list to be published in
17 the official newspaper of the municipality, which publication shall
18 constitute public notice. The published and mailed notices shall
19 identify property determined to be abandoned setting forth the owner
20 of record, if known, the tax lot and block number and street address.
21 The public officer, in consultation with the tax collector, shall also
22 send out a notice by regular mail to any mortgagee, servicing
23 organization, or property tax processing organization that receives a
24 duplicate copy of the tax bill pursuant to subsection d. of R.S.54:4-64.
25 When the owner of record is not known for a particular property and
26 cannot be ascertained by the exercise of reasonable diligence by the tax
27 collector, notice shall not be mailed but instead shall be posted on the
28 property in the manner as provided in section 5 of P.L.1942, c.112
29 (C.40:48-2.7). The mailed notice shall indicate the factual basis for
30 the public officer's finding that the property is abandoned property as
31 that term is defined in section 35 of P.L.1996, c.62 (C.55:19-54) and
32 the rules and regulations promulgated thereunder, specifying the
33 information relied upon in making such finding. In all cases a copy of
34 the mailed or posted notice shall also be filed by the public officer in
35 the office of the county clerk or register of deeds and mortgages, as
36 the case may be, of the county wherein the property is situate. This
37 filing shall have the same force and effect as a notice of lis pendens
38 under N.J.S.2A:15-6. The notice shall be indexed by the name of the
39 property owner as defendant and the name of the municipality as
40 plaintiff, as though an action had been commenced by the municipality
41 against the owner.

42 (2) The authority or its subsidiaries, as appropriate, may reimburse
43 the municipality for the postage costs and search fees associated with
44 providing notice in accordance with paragraph (1) of this subsection
45 in accordance with procedures and rules promulgated by the
46 Department of Community Affairs.

1 e. An owner or lienholder may challenge the inclusion of his
2 property on the abandoned property list determined pursuant to
3 subsection b. of this section by appealing that determination to the
4 public officer within 30 days of the owner's receipt of the certified
5 notice or 40 days from the date upon which the notice was sent. An
6 owner whose identity was not known to the public officer shall have
7 40 days from the date upon which notice was published or posted,
8 whichever is later, to challenge the inclusion of a property on the
9 abandoned property list. For good cause shown, the public officer
10 shall accept a late filing of an appeal. Within 30 days of receipt of a
11 request for an appeal of the findings contained in the notice pursuant
12 to subsection d. of this section, the public officer shall schedule a
13 hearing for redetermination of the matter. Any property included on
14 the list shall be presumed to be abandoned property unless the owner,
15 through the submission of an affidavit or certification by the property
16 owner averring that the property is not abandoned and stating the
17 reasons for such averment, can demonstrate that the property was
18 erroneously included on the list. The affidavit or certification shall be
19 accompanied by supporting documentation, such as but not limited to
20 photographs, repair invoices, bills and construction contracts. The
21 sole ground for appeal shall be that the property in question is not
22 abandoned property as that term is defined in section 35 of P.L.1996,
23 c.62 (C.55:19-54). The public officer shall decide any timely filed
24 appeal within 10 days of the hearing on the appeal and shall promptly,
25 by certified mail, return receipt requested, and by regular mail, notify
26 the property owner of the decision and the reasons therefor.

27 f. The property owner may challenge an adverse determination of
28 an appeal with the public officer pursuant to subsection e. of this
29 section, by instituting, in accordance with the New Jersey Court Rules,
30 a summary proceeding in the Superior Court, Law Division, sitting in
31 the county in which the property is located, which action shall be tried
32 de novo. Such action shall be instituted within 20 days of the date of
33 the notice of decision mailed by the public officer pursuant to
34 subsection e. of this section. The sole ground for appeal shall be that
35 the property in question is not abandoned property as that term is
36 defined in section 35 of P.L.1996, c.62 (C.55:19-54). The failure to
37 institute an action of appeal on a timely basis shall constitute a
38 jurisdictional bar to challenging the adverse determination, except that,
39 for good cause shown, the court may extend the deadline for
40 instituting the action.

41 g. The public officer shall promptly remove any property from the
42 abandoned property list that has been determined not to be abandoned
43 on appeal.

44 h. Any municipality which has not adopted an ordinance directing
45 the public officer to create an inventory of abandoned property and
46 create an abandoned property list within seven years after the effective

1 date of P.L.1996, c.62 or one year after the effective date of P.L. c.
2 (pending before the Legislature as this bill), whichever is sooner, shall
3 be required to adopt such an ordinance if a petition demanding
4 adoption of such an ordinance, in such form as the Department of
5 Community Affairs shall specify by regulation, is submitted to the
6 municipal clerk containing valid signatures of municipal residents equal
7 to 5 percent of the number of voters in the last election for municipal
8 offices, but in no event fewer than 100 signatures in a municipality
9 with a population of 1,000 persons or more. The ordinance shall be
10 adopted no less than 90 days after the municipal clerk certifies that the
11 petition contains the minimum number of valid signatures required by
12 this section.

13 i. Any interested party may submit in writing a request to the
14 public officer that a property be included on the list of abandoned
15 properties, specifying the street address and block and lot number of
16 the property to be included, and the grounds for its inclusion. Within
17 30 days of receipt of any such request, the public officer shall provide
18 a written response to the party, either indicating that the property will
19 be added to the list of abandoned properties, or if not, the reasons for
20 not adding the property to the list. For purposes of this section,
21 "interested party" shall include any resident of the municipality, any
22 owner or operator of a business within the municipality, or any
23 organization representing the interests of residents, or engaged in
24 furthering the revitalization and improvement of the neighborhood in
25 which the property is located.

26 j. Any interested party, as defined in subsection i. above shall have
27 the right to participate in any redetermination hearing held by the
28 public officer pursuant to subsection e. of this section. Upon written
29 request by any interested party, the public officer shall provide the
30 party with at least 20 days' notice of any such hearing of its intention
31 to participate, and the nature of the testimony or other information
32 that it proposes to submit at the hearing.

33 (cf: P.L.1996, c.62, s.36)

34

35 10. Section 37 of P.L.1996, c.62 (C.55:19-56) is amended to read
36 as follows:

37 37. a. Notwithstanding R.S.54:5-19 or the provisions of any other
38 law to the contrary, if a property is included on the abandoned
39 property list and the property taxes or other municipal liens due on the
40 property are delinquent [~~six~~] two or more quarters as of the date of
41 expiration of the right to appeal inclusion on the list, or, if an appeal
42 has been filed, as of the date that all opportunities for appeal of
43 inclusion on the list have been exhausted, then the tax lien on the
44 property may be sold in accordance with the procedures in the "tax
45 sale law," R.S.54:5-1 et seq., on or after the 90th day following the
46 expiration of that time of appeal or final determination on an appeal,

1 as appropriate. The purchaser of a tax sale certificate sold pursuant
2 to this subsection, unless it is the municipality, a Municipal Land
3 Reclamation Agency, or the authority or its subsidiaries, shall be
4 required to post bond to guarantee the rehabilitation of the property
5 in accordance with the requirements for an owner to remove the
6 property from the abandoned property list pursuant to section 36 of
7 P.L.1996, c.62 (C.55:19-55). The cost of the bond posted by the
8 purchaser of the tax sale certificate shall be added to the amount
9 required to be paid by the owner for redemption of the property. The
10 municipality may, at its option, require that the sale of the tax sale
11 certificate or any subsequent assignment or transfer of a tax sale
12 certificate held by the municipality be subject to the express condition
13 that the purchaser or assignee shall be obliged to perform and
14 conclude any rehabilitation or repairs necessary to remove the
15 property from the abandoned property list pursuant to section 36 of
16 P.L.1996, c.62 (C.55:19-55) and to post a bond in the amount of 125
17 percent of the cost of rehabilitation as determined by the public officer
18 in favor of the municipality to guarantee the rehabilitation or repair of
19 the property. The cost of rehabilitation and repairs and the cost of the
20 bond shall be added to the amount required to be paid by the owner
21 for redemption of the property. The purchaser, assignee or transferee
22 of the tax sale certificate who is required to rehabilitate and repair the
23 property shall be required to file the appropriate affidavits with the tax
24 collector, pursuant to R.S.54:5-62, representing the amounts of
25 moneys expended periodically toward the rehabilitation or repair of the
26 property. A purchaser, assignee or transferee shall be entitled to
27 interest on the amounts expended, as set forth in the affidavits, at the
28 delinquent rate of interest for delinquencies in excess of \$1,500
29 pursuant to R.S.54:4-67 of the municipality in effect for the time
30 period when the amounts were expended. The tax sale certificate
31 purchaser, assignee or transferee, under the auspices and with the
32 authority of the municipality, shall be permitted to enter in and upon
33 the property for the purposes of appraising the costs of rehabilitation
34 and repair and to perform all other acts required to guarantee the
35 completion of the rehabilitation or repair of the property. No
36 rehabilitation or repair work shall be commenced, however, until proof
37 of adequate liability insurance and an indemnification agreement
38 holding the municipality harmless is filed with the public officer. If the
39 tax sale certificate is not purchased at the initial auction of the tax sale
40 certificate and the municipality purchases the certificate pursuant to
41 R.S.54:5-34, then the municipality is authorized and empowered to
42 convey and transfer to the Municipal Land Reclamation Agency or the
43 authority or any of its subsidiaries, without receiving compensation
44 therefor, all of its right, title and interest in that certificate ; however,
45 any portion of the amount paid to the tax collector to redeem the tax
46 sale certificate that represents tax or other municipal lien delinquencies

1 and subsequent municipal liens, including interest, shall be returned by
2 the tax collector to the municipality.

3 b. (1) If the municipality, the Municipal Land Reclamation
4 Agency, or the authority or its subsidiaries acquires the tax sale
5 certificate for a property on the abandoned property list, then, upon 10
6 days' written notice to the property owner and any mortgagee as of the
7 date of the filing of the lis pendens notice under subsection d. of
8 section 36 of P.L.1996, c.62 (C.55:19-55), that entity shall be
9 permitted to enter upon the property and remediate any conditions that
10 caused the property to be included on the abandoned property list. No
11 remediation shall be commenced, however, if within that 10-day period
12 the owner or mortgagee shall have notified the municipality or
13 authority or its subsidiary, as appropriate, in writing that the owner or
14 mortgagee has elected to perform the remediation itself. When the
15 owner or mortgagee elects to perform the remediation itself, it shall be
16 required to post bond in favor of the municipality, the Municipal Land
17 Reclamation Agency, or authority or its subsidiaries, as appropriate,
18 in order to ensure performance. The amount and conditions of the
19 bond shall be determined by the public officer but shall be no less than
20 125 percent of the cost of rehabilitation as determined by the public
21 officer.

22 (2) The cost of remediation incurred by the municipality or the
23 authority or its subsidiaries pursuant to this subsection, as so certified
24 by the entity incurring the cost upon completion of the remediation,
25 shall constitute a lien upon the property first in time and right to any
26 other lien, whether the other lien was filed prior to, or after the filing
27 of any lien by the municipality or the authority, except for municipal
28 taxes, liens and assessments and any lien imposed pursuant to the
29 "Spill Compensation and Control Act," P.L.1976, c.141
30 (C.58:10-23.11 et seq.), together with any interest thereon. The
31 certification of cost shall be filed and recorded as a lien by the entity
32 incurring the cost with the county clerk or register of deeds and
33 mortgages, as appropriate, in the county in which the property is
34 located.

35 (3) Any lien placed against any real property pursuant to the
36 provisions of subsection (f) of section 3 of P.L.1942, c.112 (C.40:48-
37 2.5) shall constitute a lien upon the property first in time and right to
38 any other lien, whether the other lien was filed prior to, or after the
39 filing or any lien by the municipality, except for any lien imposed
40 pursuant to the "Spill Compensation and Control Act," P.L.1976,
41 c.141 (C.58:10-23.11 et seq.) together with any interest thereon. The
42 municipality may institute an action to foreclose the right of
43 redemption at any time after the expiration of 60 days after the filing
44 of the lien certificate.

45 c. Notwithstanding any provision of the "tax sale law," R.S.54:5-1
46 et seq., municipalities shall be authorized to hold a special tax sale

1 limited to properties eligible for tax sale subject to the provisions of
2 subsection a. of this section. Municipalities electing to hold such a
3 special tax sale shall conduct said sale subject to the following
4 provisions:

5 (1) The municipality shall establish criteria for eligibility to bid on
6 properties at the sale, which may include, but shall not be limited to,
7 documentation of the bidder's ability to rehabilitate or otherwise reuse
8 the property consistent with municipal plans and regulations;
9 commitments by the bidder to rehabilitate or otherwise reuse the
10 property, consistent with municipal plans and regulations;
11 commitments by the bidder to take action to foreclose on the tax lien
12 by a date certain; and such other criteria as the municipality may
13 determine are necessary to ensure that the properties to be sold will be
14 rehabilitated or otherwise reused in a manner consistent with the
15 public interest;

16 (2) The municipality may establish minimum bid requirements for
17 a special tax sale that may be less than the full amount of the taxes,
18 interest and penalties due, the amount of such minimum bid to be at
19 the sole discretion of the municipality, in order to ensure that the
20 properties to be sold will be rehabilitated or otherwise reused in a
21 manner consistent with the public interest;

22 (3) The municipality may combine properties into bid packages,
23 and require that bidders place a single bid on each package, and reject
24 any and all bids on individual properties that have been included in bid
25 packages;

26 (4) The municipality may sell properties subject to provisions that,
27 if the purchaser fails to carry out any commitment that has been set
28 forth as a condition of sale pursuant to paragraph (1) of subsection c.
29 of this section, or misrepresents any material qualification that has
30 been established as a condition of eligibility to bid pursuant to
31 paragraph (1) of subsection c. of this section, the properties and any
32 interest thereto acquired by the purchaser shall revert to the
33 municipality, and any amount paid by the purchaser to the municipality
34 at the special tax sale shall be forfeit to the municipality.

35 [c.]d. (1) Failure of an owner or lienholder to remove a property
36 from the abandoned property list within 60 days after expiration of the
37 period of time for appeal of inclusion of the property on the list
38 pursuant to subsection e. of section 36 of P.L.1996, c.62
39 (C.55:19-55), shall be prima facie evidence of the intent of the owner
40 to continue to maintain the property as abandoned property.

41 (2) The clearance, development, redevelopment, or repair of
42 property being maintained as an abandoned property pursuant to
43 paragraph (1) of this subsection shall be a public purpose and public
44 use for which the power of eminent domain may be exercised. With
45 respect to any eminent domain proceeding carried out under the
46 authority of this subsection, the fair market value of the property shall

1 be established on the basis of an analysis which determines
2 independently: (a) the cost to rehabilitate and reuse the property for
3 such purpose as is appropriate under existing planning and zoning
4 regulations governing its reuse, or to demolish the existing property
5 and construct a new building on the site, including all costs ancillary
6 to rehabilitation such as but not limited to marketing and legal costs;
7 (b) the realistic market value of the reused property after rehabilitation
8 or new construction, taking into account the market conditions
9 particular to the neighborhood or subarea of the municipality in which
10 the property is located; and (c) the extent to which the cost exceeds
11 or does not exceed the market value after rehabilitation, or demolition
12 and new construction, and the extent to which any "as is" value of the
13 property prior to rehabilitation can be added to the cost of
14 rehabilitation or demolition and new construction without the resulting
15 combined cost exceeding the market value as separately determined.
16 If the appraisal finds that the cost of rehabilitation or demolition and
17 new construction, as appropriate, exceeds the realistic market value,
18 there shall be a rebuttable presumption in all proceedings under this
19 subsection that the fair market value of the abandoned property is
20 zero, and that no compensation is due the owner.

21 e. (1) When an abandoned property is located adjacent to or in
22 close proximity to the construction or rehabilitation of one or more
23 buildings for residential, commercial or institutional purposes being
24 undertaken by a nonprofit entity for the purpose of providing
25 affordable housing or furthering the revitalization of the neighborhood,
26 and that property, by virtue of its condition, appearance, or other
27 factors, will have a material effect on the health, safety and quality of
28 life of the residents in the development; and when the abandoned
29 property is in private hands, and the nonprofit entity has made a good
30 faith effort to acquire the property through negotiation without
31 success, the entity may petition the municipality to acquire the
32 property on its behalf through exercise of the power of eminent
33 domain as provided in subsection d. of this section.

34 (2) If, notwithstanding the petition by the entity, the municipality
35 fails to authorize the acquisition of the property and the use of eminent
36 domain within 90 days, or fails subsequently to initiate and complete
37 proceedings for acquisition of the property in timely fashion, the entity
38 may file a motion in Superior Court seeking an order granting the
39 entity the power to exercise eminent domain with respect to the
40 property. In filing such motion, the entity shall set forth with
41 specificity how the property in its present condition will materially
42 affect the health, safety or quality of life of the residents in the
43 development, and how no alternative to eminent domain is available to
44 remedy this condition.

45 (3) Any nongovernmental entity exercising the power of eminent
46 domain pursuant to this section shall be governed by all of the

1 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
2 (C.20:3-1 et seq.).

3 f. The exercise of the power of eminent domain pursuant to
4 subsections d. and e. of this section shall be available with respect to
5 any abandoned property, whether or not the municipality in which it
6 is located has established an abandoned property list as provided in
7 section 36 of P.L.1996, c.62 (C.55:19-55), or whether the property is
8 listed on any such list.

9 (cf: P.L.1996, c.62, s.37)

10

11 11. Section 38 of P.L.1996, c.62 (C.55:19-57) is amended to read
12 as follows:

13 38. a. An owner may remove a property from the list of
14 abandoned properties prior to sale of the tax sale certificate by paying
15 all taxes and municipal liens due, including interest and penalties and:

16 (1) by posting cash or a bond equal to 125 percent of the cost of
17 remediating all conditions because of which the property has been
18 determined to be abandoned pursuant to section 36 of P.L.1996, c.62
19 (C.55:19-55) and posting cash or a bond to cover the cost of any
20 environmental cleanup required on the property, evidenced by a
21 certification by a licensed engineer retained by the owner and reviewed
22 and approved by the public officer stating that the cash or bond
23 **[adequately covers]** represents at least 125 percent of the cost of the
24 cleanup; or

25 (2) by demonstrating to the satisfaction of the public officer that
26 the conditions rendering the property abandoned have been remediated
27 in full; provided, however, that where the public officer finds that the
28 owner is actively engaged in remediating the conditions because of
29 which the property was determined to be abandoned pursuant to
30 section 36 of P.L.1996, c.62 (C.55:19-55), as evidenced by significant
31 rehabilitation activity on the property, the public officer may grant an
32 extension of time of not more than 120 days for the owner to complete
33 all work, during which time no further proceedings will be taken
34 against the owner or the property.

35 b. If the owner has posted cash or a bond in order to have a
36 property removed from the abandoned property list and the conditions
37 because of which the property was determined to be abandoned have
38 not been fully remediated within one year of the date of posting the
39 cash or bond, or, in the case of a property which requires a
40 remediation of any known, suspected or threatened release of
41 contaminants, if the owner has failed to enter into a memorandum of
42 agreement with the Department of Environmental Protection or an
43 administrative consent order, as the case may be, or if an agreement or
44 order is in effect but the owner has failed to perform the remediation
45 in conformance with the agreement or order, then the cash or bond
46 shall be forfeited to the municipality which shall use the cash or bond

1 and any interest which has accrued thereon for the purpose of
2 demolishing or rehabilitating the property or performing the
3 environmental remediation. Any funds remaining after the property
4 has been demolished, rehabilitated or cleaned up, as the municipality
5 shall determine to be appropriate at its sole discretion, shall be
6 returned to the owner.

7 (cf: P.L.1996, c.62, s.38)

8

9 12. Section 39 of P.L.1996, c.62 (C.55:19-58) is amended to read
10 as follows:

11 39. a. When a person other than the municipality, the Municipal
12 land Reclamation Agency, or the authority or its subsidiaries acquires
13 a tax sale certificate for a property on the abandoned property list at
14 tax sale, the purchaser may institute an action to foreclose the right of
15 redemption at any time after the expiration of six months following the
16 date of the sale of the tax sale certificate.

17 b. Notwithstanding section 6 of P.L.1948, c.96 (C.54:5-104.34),
18 when the municipality or the Municipal Land Reclamation Agency is
19 the purchaser at tax sale of any property on the abandoned property
20 list pursuant to R.S.54:5-34, or when the Municipal Land Reclamation
21 Agency acquires the tax sale certificate pursuant to section 6 of
22 P.L. , c. (C.) (pending before the Legislature as this bill), or
23 the authority or any of its subsidiaries acquires the tax sale certificate
24 pursuant to subsection a. of section 37 of P.L.1996, c.62
25 (C.55:19-56), an action to foreclose the right of redemption may be
26 instituted in accordance with the provisions of subsection b. of
27 R.S.54:5-77.

28 c. After the foreclosure action is instituted, the right to redeem
29 shall exist and continue to exist until barred by the judgment of the
30 Superior Court; provided, however, that no redemption shall be
31 permitted except where the owner:

32 (1) posts cash or a bond equal to 125 percent of the cost of
33 remediating the conditions because of which the property was
34 determined to be abandoned pursuant to section 36 of P.L.1996, c.62
35 (C.55:19-55), as determined by the court pursuant to recommendation
36 by the public officer; or

37 (2) demonstrates to the court that the conditions because of which
38 the property was determined to be abandoned pursuant to section 36
39 of P.L.1996, c.62 (C.55:19-55) have been remedied in full.

40 (cf: P.L.1996, c.62, s.39)

41

42 13. (New section) Sections 13 through 20 of this bill shall be
43 known as the "Homesteading of Abandoned Properties Act."

44

45 14. (New section) The Legislature finds that:

46 a. The rehabilitation of abandoned properties in New Jersey's urban

1 areas for home ownership by families and individuals of all income
2 levels furthers neighborhood and urban revitalization, and is deemed
3 a public purpose.

4 b. The success of a homesteading program has been hindered by
5 significant financial obstacles which exist to the rehabilitation of
6 abandoned properties, particularly in blighted inner-city
7 neighborhoods.

8 c. It is appropriate in light of the public benefits derived from the
9 rehabilitation of abandoned properties for home ownership to provide
10 incentives for families and individuals to undertake such efforts.

11

12 15. (New section) As used in sections 13 through 20 of
13 P.L. , c. (C.) (pending before the Legislature as this bill):

14 "Eligible municipality" means any municipality with an individual
15 poverty rate according to the 2000 federal decennial census of greater
16 than 20 percent and an equalized municipal tax rate for 2001 of more
17 than \$1.50.

18 "Homesteading" means the purchase of an abandoned property
19 containing one to four dwelling units by one or more individuals
20 constituting or heading a household and the rehabilitation of that
21 property for use as the principal residence of the household.

22 "Household" means one or more individuals, who may or may not
23 be related by blood, marriage or adoption, jointly occupying a housing
24 unit in a non-commercial relationship.

25 "Abandoned property" means any property that is either on the
26 municipal abandoned property list, or otherwise certified as abandoned
27 by the public officer, pursuant to the definition of abandoned property
28 in section 3 of P.L. , c. (C.) (pending before the Legislature as
29 this bill).

30

31 16. (New section) A municipality may, by ordinance, establish a
32 program for the homesteading of abandoned properties in all or part
33 of the municipality. Any municipality which enacts such an ordinance
34 shall designate in that ordinance a department or agency of the
35 municipality, or the Municipal Land Reclamation Agency, to
36 administer the program, and shall specify whether the program will
37 apply to the entire municipality or to selected areas, which shall be
38 clearly set forth in the ordinance. None of the provisions of sections
39 17 through 19 of P.L. , c. (C.) (pending before the Legislature as
40 this bill) shall take effect in any municipality prior to the enactment of
41 such ordinance, nor shall a municipality be eligible to apply for the
42 "Targeted Neighborhood Rehabilitation Assistance Program,"
43 established by section 20 of P.L. , c. (C.) (pending before the
44 Legislature as this bill) prior to the enactment of the ordinance.

45

46 17. (New section) Any municipality which has adopted an

1 ordinance providing for the homesteading of abandoned properties
2 pursuant to section 16 of P.L. , c. (C.) (pending before the
3 Legislature as this bill) may, by resolution, with respect to any such
4 property: a. waive all property taxes on both land and improvements
5 during the period that the property is undergoing rehabilitation, but for
6 no more than three years; b. enter into a tax abatement agreement
7 upon the completion of rehabilitation under which up to the entire
8 value of improvements is abated for a period of up to five years after
9 receipt of the certificate of occupancy; c. authorize a further tax
10 abatement agreement, for a term of up to five years, commencing on
11 the date that the tax abatement agreement set forth in subsection b. of
12 this section expires, under which full property taxes on the improved
13 value of the property shall be phased in proportionate steps during the
14 term of the agreement.

15

16 18. (New section) Notwithstanding any other provision of law,
17 any municipality which has adopted an ordinance providing for the
18 homesteading of abandoned properties pursuant to section 16 of
19 P.L. , c. (C.) (pending before the Legislature as this bill) may,
20 according to the procedure established by law, appropriate general
21 revenues or make available proceeds from general obligation bonds or
22 notes for the purpose of making grants or loans to households
23 participating in the municipality's program for homesteading of
24 abandoned properties.

25

26 19. (New section) Notwithstanding any other provision of law, a
27 municipality shall not prevent the owner of an abandoned property that
28 meets the criteria of the program and that is purchased from the
29 municipality, the Municipal Land Reclamation Agency, or a not-for-
30 profit entity, from occupying that property as the owner's principal
31 residence, provided that the owner presents a plan to the public officer
32 for the rehabilitation of the property in a timely fashion, and certifies
33 to the public officer that the owner is rehabilitating the property for
34 the owner's use as owner-occupant; that no part of the property will
35 be rented as a separate unit prior to receipt of a certificate of
36 occupancy from the municipality; and that the integrity of the structure
37 is intact; provided that the public officer may require the owner to
38 obtain a structural inspection by a licensed engineer in addition to this
39 certification. The public officer may require the owner to provide a
40 waiver of municipal liability as part of the certification.

41

42 20. (New section) A pilot program to be known as the "Targeted
43 Neighborhoods Rehabilitation Assistance Program" is hereby
44 established in the Department of Community Affairs as follows:

45 a. The Commissioner of Community Affairs shall, within 120 days
46 of the effective date of P.L. , c. (C.) (pending before the

1 Legislature as this bill) invite proposals from eligible municipalities to
2 have neighborhoods designated as target neighborhoods for this
3 program. Each proposal must identify a single target neighborhood in
4 the eligible municipality, which neighborhood shall have an estimated
5 population of no more than 10,000, and establish why the particular
6 features of the neighborhood, with respect to both distress and
7 opportunity, make it an appropriate candidate for the program. The
8 proposal shall include an inventory of abandoned property in the
9 proposed target neighborhood, showing how such properties are
10 suitable and desirable for owner occupancy. The proposal shall also
11 specify in detail the actions that the eligible municipality has taken in
12 the past, is currently taking, and will take in the future, including but
13 not limited to tax abatements under section 17 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), to foster the revitalization
15 of the neighborhood generally, and increase home ownership by people
16 of all income levels in the neighborhood, in particular. Based on a
17 careful and objective review of the proposals, the commissioner shall
18 designate six neighborhoods as target neighborhoods for this program.
19 No more than one target neighborhood shall be located in any one
20 eligible municipality.

21 b. Within each target neighborhood designated by the
22 commissioner, a maximum of 50 households participating in the
23 homesteading of abandoned properties program pursuant to sections
24 13 through 20 of P.L. , c. (C.) (pending before the Legislature as
25 this bill), who purchased the property after the effective date of
26 P.L. , c. (C.) (pending before the Legislature as this bill) shall be
27 eligible to receive a rebate from the State in an amount equal to 25
28 percent of the household's cost of rehabilitation, based on documented
29 costs, up to a maximum amount of \$25,000. The rebate shall be
30 payable in three equal annual installments, the first to be paid no later
31 than 90 days following receipt of the household's application, and the
32 second and third on or about the anniversary of the first installment;
33 except that should the household cease to own and occupy the
34 property prior to receipt of all installments, they shall forfeit any right
35 to the installments due after they cease to own and occupy the
36 property.

37 c. The application shall be on a form prepared by the Department
38 of Community Affairs, and may be submitted at any time within one
39 year after the date of receipt of a certificate of occupancy for the
40 property. The applicant shall attach a copy of the certificate of
41 occupancy, a certificate that the property meets the criteria of the
42 program from the public officer, and documentation of rehabilitation
43 costs. In the case of work performed by the owner or other
44 volunteers, the value of the work shall be established by a report by
45 the public officer or a qualified construction inspector or estimator.

46 d. Pursuant to the "Administrative Procedure Act," P.L.1968,

1 c.410 (C.52:14B-1 et seq.), the Commissioner of Community Affairs
2 shall adopt regulations to implement the provisions of this section.

3 e. This pilot program shall remain in effect for ten years from the
4 effective date of P.L. , c. (C.) (now pending before the
5 Legislature as this bill). At the end of the third year, the
6 Commissioner of Community Affairs shall evaluate the effectiveness
7 of the pilot program. If the commissioner deems the program to be
8 successful, the commissioner may expand the qualifications for
9 eligible municipalities for years four through ten of the pilot program
10 to include such number of additional municipalities in the pilot
11 program as the commissioner deems appropriate, given the levels of
12 distress and the number of abandoned properties in those
13 municipalities. The program may be extended for an additional ten
14 years, upon a finding by the commissioner that the public purpose
15 would be served by such extension and recommendation to the
16 Governor, by executive order.

17

18 21. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill establishes the authority of municipalities to determine that
24 abandoned properties are a nuisance and then to seek a court order to
25 require that the nuisance conditions be abated through immediate
26 demolition, stabilization or repair. If the property's owner fails to
27 comply with the court order, the municipality may seek provisional
28 title to the property.

29 The bill authorizes a municipality to create, by ordinance, a
30 Municipal Land Reclamation Agency in order to vest in a single entity
31 the comprehensive ability to address municipal property acquisition
32 and disposition issues.

33 The bill also establishes incentives for homesteading of abandoned
34 properties and creates a pilot program to designate target
35 neighborhoods in eligible municipalities. In these target
36 neighborhoods, households will be eligible to receive rebates from the
37 State in an amount equal to 25 percent of the household's cost of
38 rehabilitating an abandoned property which the household will occupy.
39 Under the definition of "eligible municipality" in the bill, six
40 municipalities would qualify: Camden, Asbury Park, Paterson, Union
41 City, Passaic, and Trenton.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2543

STATE OF NEW JERSEY

DATED: OCTOBER 21, 2002

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2543.

This bill establishes the authority of municipalities to determine that abandoned properties are a nuisance and then to seek a court order to require that the nuisance conditions be abated through immediate demolition, stabilization or repair. If the owner of the property fails to comply with the court order, then the municipality may seek provisional title to the property for the purpose of encouraging any private lienholders to satisfy the municipal liens against the property and to abate the nuisance conditions. In return for performing these actions, the municipality would file an action in Superior Court to convey title of the property to that lienholder. If no lienholder is willing to satisfy the municipal liens and abate the nuisance conditions, then the municipality itself could obtain full and absolute title to the property.

The bill provides that when an abandoned property is in need of rehabilitation and the owner has failed to take any action to further rehabilitation for a period of six months or more, the municipality, or a qualified rehabilitation entity, may petition the Superior Court for an order of possession for the purpose of rehabilitating the property for its reuse. An owner would have to file a detailed plan of rehabilitation with the court, and post a bond, in order to defeat the petition for possession. If a municipality or qualified rehabilitation entity has rehabilitated an abandoned property and filed a Notice of Completion with the court, then the owner would have 30 days from service of the notice to petition the court for the return of the property, conditioned upon the owner repaying all of the costs of rehabilitation and meeting several other requirements.

The bill also authorizes a municipality to create, by ordinance, a Municipal Land Reclamation Agency in order to vest in a single entity the comprehensive ability to address municipal property acquisition and disposition issues.

Finally, the bill establishes incentives for homesteading of abandoned properties and creates a pilot program to designate target neighborhoods in eligible municipalities. In these target

neighborhoods, households will be eligible to receive rebates from the State in an amount equal to 25 percent of the household's cost of rehabilitating an abandoned property which the household will occupy. Under the definition of "eligible municipality" in the bill, six municipalities would qualify: Camden, Asbury Park, Paterson, Union City, Passaic, and Trenton.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2543**

STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2543.

This Assembly Committee Substitute for Assembly Bill No. 2543 extends the authority of municipalities to determine that abandoned properties are a nuisance and require that the nuisance conditions be abated through immediate demolition, stabilization or repair.

The substitute establishes a standard according to which certain properties may be determined to be abandoned. Specifically, a property which may be determined to be abandoned under the substitute would be one which has not been legally occupied for a period of six months and which meets one of the following additional criteria: (1) the property is in need of rehabilitation and has not been rehabilitated during the period it has been unoccupied; (2) construction has been initiated on the property in the past, but not for that six month period; (3) the property has been in tax arrearage for at least one installment period; or (4) the property has been determined to be a nuisance by the public officer. A public officer who deems a property to be abandoned is obligated under the substitute to follow those notification procedures which are currently required when a property is determined to be a nuisance under P.L.1942, c.112.

The substitute enumerates the various circumstances under which a property may be determined to be a nuisance, which include a finding that the property is unfit for human habitation under section 1 of P.L.1942, c.112 (C.40:48-2.3) and a series of deleterious conditions which render the property a fire hazard or potential health and safety hazard.

The substitute establishes two exceptions from this determination of abandonment which relate to the purchase or taking assignment of a tax sale certificate by an entity other than the municipality and the vacancy of a property used on a seasonal basis.

The substitute establishes a procedure which follows from a municipal finding that an abandoned property is in need of rehabilitation and, if the owner or any mortgage holder or lien holder has failed to take action to further the rehabilitation of the property,

culminating in the acquisition of possession of the property by the municipality, mortgage holder or lien holder.

This process is initiated with the filing by the municipality of a complaint in Superior Court seeking an order granting it possession of the property for the purpose of pursuing its rehabilitation and reuse. This complaint shall include documentation that the property is on the abandoned property list or a certification by the public officer that the property is abandoned. The complaint shall also include a statement by an individual holding appropriate professional qualifications attesting to the reasons that the building should be rehabilitated rather than demolished. The substitute requires the municipality to provide at least 30 days' notice to the owner prior to filing the complaint.

An owner may defend against the complaint by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125 percent of the amount determined by the public officer to represent the projected cost of rehabilitation. The substitute sets forth the required contents of such a plan, which includes a financial feasibility analysis, a budget and timetable for rehabilitating the property, and documentation of the qualifications of the individuals and firms that will effectuate the rehabilitation. The court shall approve any plan that is realistic and likely to result in the expeditious rehabilitation and reuse of the property and, correspondingly, disapprove any plan which is unrealistic. If the court approves the owner's plan, it may appoint the public officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, the public officer shall notify the court, which may order to bond forfeit, grant the entity possession of the property, and authorize the municipality to use the proceeds of the bond for rehabilitation of the property. The owner shall provide quarterly reports to the municipality and the court on the owner's progress toward rehabilitation and reuse of the property.

If an owner fails to successfully defend against a complaint, a mortgage holder or lien holder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions described above. If no mortgage holder or lienholder meets these conditions, the municipality shall submit a plan, which shall designate that entity which shall implement the plan. This entity may be the municipality or a qualified rehabilitation entity, defined in the substitute as an entity organized or authorized to do business under New Jersey law, which shall have as one of its purposes the construction or rehabilitation or residential or non-residential buildings, the provision of affordable housing and the restoration of abandoned property, among others.

If the municipality is granted possession of a property under this substitute, the municipality shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and any State program of grants or loans. Where the

municipality borrows funds for the express purpose of rehabilitating the property, the court may authorize the municipality to grant a lien or security interest with priority over all other liens or mortgages other than municipal liens.

The substitute clarifies that, notwithstanding the granting of possession by the court to a municipality of a property determined to be abandoned, the owner shall continue to be responsible for all taxes or other municipal liens and charges, or mortgages or liens to any party, incurred on the property, whether those taxes, charges or liens are incurred before or after the granting of possession. Nor shall the owner be relieved of any operating or maintenance expense associated with the property. Similarly, although the municipality is required to maintain, safeguard, and maintain insurance on the property, nothing in the substitute shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

The municipality is authorized to seek court approval to assign its rights to another entity, which may be granted under the circumstances enumerated in the substitute.

The substitute sets forth a process whereby an owner may petition for reinstatement of the owner's control and possession of the property, what the petition shall include, and what requirements the court may impose as a condition for reinstating those rights.

If the municipality sells the property, the substitute sets forth the order of distribution of the proceeds of such a sale. The substitute authorizes the public officer, with the approval of the court, to place a lien on the property to cover any costs of the municipality incurred prior to the granting by the court of an order of possession, which may include costs incurred to stabilize or secure the property.

The substitute authorizes municipalities to hold special tax sales with respect to those properties eligible for tax sale under R.S.54:5-19 which are also on an abandoned property list and sets forth procedures governing those special tax sales. In the case of any eminent domain proceeding carried out under section 37 of P.L.1966, c.62 (C.55:19-56), the substitute establishes the parameters for establishing fair market value.

The substitute amends various provisions of P.L.1996, c.62 to bring the existing definition of abandoned property into conformance with the new definition of this term being sought by this substitute. Various procedural changes are being proposed regarding how properties are added to the abandoned property list; in addition, interested parties are authorized to request that properties be included on the abandoned property list.

Finally, the substitute authorizes the voters of any municipality which has not adopted an ordinance to create an abandoned property list the power to initiate such an ordinance through a petition process. Such a petition would require the signature of a number of the legal voters of the municipality equal in number to five percent of the total

votes cast in the last election at which municipal officials were elected, but in no event fewer than 100 legal voters in a municipality with a population of 1,000 persons or more.

FISCAL IMPACT:

This substitute has no impact on State revenues or expenditures. No data are available for evaluating the costs and benefits of the new procedures to municipal governments, although it is presumed that the extended municipal authority provided by the substitute would only be exercised in situations where the public safety benefits exceed municipal costs.

SENATE, No. 1675

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 20, 2002

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Co-Sponsored by:

Senators Rice, James, Turner and Kyrillos

SYNOPSIS

Concerns municipal authority to deal with abandoned properties; establishes pilot program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/16/2003)

1 AN ACT concerning property abandonment and amending and
2 supplementing P.L.1996, c. 62 (C.55:19-20 et al.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) Sections 1 through 7 of this act shall be known
8 and may be cited as the "Abandoned Properties Rehabilitation Act."

9
10 2. (New section) The Legislature finds and declares that:

11 a. Abandoned properties, particularly those located within urban
12 areas or in close proximity to occupied residences and businesses,
13 create a wide range of problems for the communities in which they are
14 located, fostering criminal activity and creating public health problems
15 and diminishing the quality of life for residents and business operators
16 in those areas;

17 b. Abandoned properties diminish the property values and have a
18 negative effect on the quality of life of adjacent property owners,
19 increasing the risk of property damage through arson and vandalism
20 and discouraging neighborhood stability and revitalization;

21 c. For these reasons, abandoned properties are presumptively
22 considered to be nuisances, in view of their negative effects on nearby
23 properties and the residents or users of those properties;

24 d. The continued presence of abandoned properties in New Jersey's
25 communities acts as a significant barrier to urban revitalization and to
26 the regeneration of the state's urban centers;

27 e. Abandonment is a local problem that must be addressed locally
28 and the most important role of state government is to provide local
29 governments, local community organizations and citizens with the
30 tools to address the problem;

31 f. The responsibility of a property owner to maintain a property in
32 sound condition and prevent it from becoming a nuisance to others
33 extends to properties which are not in use and that 'demolition by
34 neglect', leading to the deterioration and loss of the property or failure
35 by an owner to comply with legitimate orders to demolish, stabilize or
36 otherwise repair his or her property creates a presumption that the
37 owner has abandoned the property and relinquished title rights;

38 g. Many abandoned buildings still have potential value for
39 residential and other uses and such buildings should be preserved
40 rather than demolished, wherever feasible, particularly buildings that
41 have historic or architectural value, or contribute to maintaining the
42 character of neighborhoods or streetscapes, or both, as the case may
43 be.

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 3. (New section) As used in this act:

2 "Abandoned property" means any property that is not legally
3 occupied in whole or large part and which meets any one of the
4 following additional criteria:

5 a. The property has not been legally occupied for a period of six
6 months, is in need of rehabilitation in the judgment of the public
7 officer, and no rehabilitation has taken place during that six month
8 period;

9 b. The property is eligible for tax foreclosure pursuant to any
10 provisions of the "tax sale law," R.S.54:5-1 et seq., or the provisions
11 of P.L. , c. (C.) (pending before the Legislature as this bill);

12 c. The property has been determined to be a nuisance by the public
13 officer for good and valid reasons, which may include but shall not be
14 limited to the following:

15 (1) the property has been found to be unfit for human habitation,
16 occupancy or use, whether for residential or nonresidential purposes,
17 as appropriate;

18 (2) the condition and vacancy of the property, taking into account
19 the nature of the structure and its proximity to other structures,
20 increases the risk of fire to the property and adjacent properties;

21 (3) the property has been used at any time during the six month
22 period prior to the public officer's determination for illegal purposes,
23 including the consumption or sale of illegal substances, and the
24 conditions resulting in that use have not been corrected;

25 (4) the owner has failed to secure the property, and it is subject to
26 unauthorized entry leading to potential health and safety hazards, or
27 the municipality has secured the property in order to prevent such
28 hazards after the owner has failed to do so;

29 (5) the presence of vermin, or the accumulations of debris, uncut
30 vegetation or physical deterioration of the structure or grounds have
31 led to potential health and safety hazards, including the risk of fire;

32 (6) the dilapidated appearance or other condition of the property
33 materially affects the welfare, including the economic welfare, of the
34 residents of the area in close proximity to the property.

35 "Public officer" means either the person designated by the
36 municipality pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5)
37 or any person designated pursuant to section 35 of P.L.1996, c.62
38 (C.55:19-54), (pending before the Legislature as Section 8 of this bill)
39 as determined by the municipality;

40 "Qualified rehabilitation entity" means an entity organized under the
41 New Jersey Statutes which shall have as one of its purposes the
42 construction or rehabilitation of residential buildings, the provision of
43 affordable housing, the restoration of abandoned property, the
44 revitalization and improvement of urban neighborhoods, or similar
45 purpose, and which shall be adequately qualified, by virtue of its staff,
46 professional consultants, financial resources, and prior activities set

1 forth in P.L. , c. (C.) (pending before the Legislature as this
2 bill).

3
4 4. (New section) a. When the public officer determines that a
5 property is abandoned and is a nuisance as defined in section 3 of
6 P.L. , c. (C.) (pending before the Legislature as this bill) and
7 the municipality finds that the nuisance conditions created by the
8 property can be abated only through immediate demolition,
9 stabilization or other action affecting the property, the public officer
10 designated pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill) may seek an order from Superior Court that the
12 owner of the property:

13 (1) Demolish, stabilize or otherwise repair the property within 14
14 days, whichever is determined to be necessary by the public officer;

15 (2) Provide the municipality with an amount determined by the
16 public officer to be 125 percent of the projected cost of demolition,
17 stabilization or such other repairs as determined to be necessary by the
18 public officer, within seven days; or

19 (3) Secure the property, post bond equal to 125 percent of the
20 amount determined by the public officer to be the projected cost of
21 rehabilitation and complete rehabilitation of the property within 90
22 days, or such additional period as may be determined to be reasonable
23 by the public officer. In addition, the public officer may require that
24 the owner furnish proof that the owner has purchased liability
25 insurance of at least \$300,000 and registered the property with the
26 municipality.

27 b. If the owner fails to comply with the court order, the public
28 officer may take such action as may be appropriate to abate the
29 conditions of the property, and may seek a default judgment from
30 Superior Court granting the municipality provisional title to the
31 property, subject to the further provisions of this section;

32 c. Subsequent to the grant of a default judgment, the municipality
33 shall notify all holders of liens on the property by certified or
34 registered mail, mailed to their last known address and posted on the
35 property, (1) that the municipality has been granted provisional title to
36 the property by Superior Court; and that (2) any lien holder shall be
37 granted title in lieu of the municipality if such lien holder, within 30
38 days of receiving notice, provides the public officer with payment
39 equal to (a) all municipal liens outstanding on the property, (b) all
40 costs incurred by the municipality in bringing action with respect to
41 the property; and (c) any costs remaining to abate the conditions of the
42 property as determined by the public officer. The municipal notice to
43 lienholders shall set forth the total amount necessary to satisfy these
44 conditions as of the date of the notice. If more than one lienholder
45 provides timely payment to the public officer, the lienholder with
46 priority shall be certified by the public officer, and the payments

1 provided by other lienholders shall be refunded to them.

2 d. The municipality shall move in Superior Court to convey title
3 to the lienholder certified by the public officer;

4 e. In the event no lienholder provides timely payment to the
5 municipality, the public officer may seek a judgment from Superior
6 Court granting full and absolute title to the property to the
7 municipality, and extinguishing all liens other than governmental ones
8 on the property;

9 f. The remedies available under this section shall be available to any
10 municipality with respect to any abandoned property, whether or not
11 it has established an abandoned property list as provided in section 36
12 of P.L.1996, c.62 (C.55:19-55), or whether the property is included
13 on any such list.

14

15 5. (New section) a. When a municipality or a qualified
16 rehabilitation entity, as defined herein, shall find that an abandoned
17 property is in need of rehabilitation and that the owner has failed to
18 take any action to further the rehabilitation of the property for a period
19 of at least six months prior to the bringing of a petition as set forth in
20 this section, the municipality or qualified entity may bring a petition to
21 Superior Court seeking an order granting it possession of the property
22 for the purpose of pursuing its rehabilitation and reuse as set forth in
23 this section. Failure by the owner to submit plans for rehabilitation to
24 the municipality or to obtain building permits for rehabilitation from
25 the municipality within that six month period shall be deemed prima
26 facie evidence that the owner has failed to take any action to further
27 the rehabilitation of the property;

28 b. When the petition is brought by the municipality, it shall include
29 a certification by the public officer that the property is abandoned;
30 when the petition is brought by any other entity, it shall either include
31 such certification or shall include such evidence sufficient to show
32 that, notwithstanding the lack of action by the public officer, the
33 property is abandoned;

34 c. At least 30 days before filing the petition, the municipality or
35 qualified entity shall provide notice to parties in interest of the
36 property, by certified or registered mail, mailed to their last known
37 address and posted on the property. All known parties in interest shall
38 be named as defendants in the petition;

39 d. (1) The owner can defend against the order by submitting a plan
40 for the rehabilitation and reuse of the property, including milestones
41 for performance of key steps leading to rehabilitation and reuse, which
42 plan is found by the public officer to be realistic and expeditious, and
43 posting a bond equal to 125 percent of the amount determined by the
44 public officer to be the projected cost of rehabilitation;

45 (2) No defense that does not include such a plan and bond shall be
46 accepted by the court; provided, however, that the court can reject the

1 plan and bond if it finds that the plan does not represent a realistic and
2 expeditious means of ensuring the rehabilitation of the property or that
3 the owner or his representatives or agents, or both, lack the
4 qualifications, background or other criteria necessary to ensure that
5 the plan will be carried out successfully;

6 (3) If the court approves the owner's plan, it shall appoint the entity
7 bringing the petition to act as monitor of the owner's compliance. If
8 the owner fails to carry out any step in the approved plan, the entity
9 bringing the petition shall notify the court, which may order the bond
10 forfeit, grant the entity possession of the property, and authorize the
11 entity to use the proceeds of the bond for rehabilitation of the
12 property.

13 e. If the owner fails to successfully defend against the petition, any
14 party in interest may seek to be designated in possession of the
15 property by submitting a plan and posting a bond meeting the same
16 conditions as set forth in subsection a. of section 4 of P.L. , c.

17 (C.) (pending before the Legislature as this bill). If the court
18 approves any such party in interest's plan, it shall designate said party
19 to be in possession of the property for purposes of ensuring its
20 rehabilitation and reuse and shall appoint the entity bringing the
21 petition to act as monitor of the party's compliance. If the party in
22 possession fails to carry out any step in the approved plan, the entity
23 bringing the petition shall notify the court, which may order the bond
24 forfeit, grant the entity possession of the property, and authorize the
25 entity to use the proceeds of the bond for rehabilitation of the
26 property.

27 f. The entity bringing the petition shall submit a plan which shall
28 present a realistic and timely procedure for the rehabilitation and reuse
29 of the property, which may be for any purpose appropriate for the
30 property and beneficial to the surrounding area. If no party in interest
31 who is a lienholder meets the conditions of subsection c. of section 4
32 of P.L. , c. (C.) (pending before the Legislature as this bill), and the
33 court finds that the proposed reuse of the property is appropriate and
34 beneficial, the court shall grant the entity possession of the property,
35 which entity shall take all steps necessary and appropriate to further
36 the rehabilitation and reuse of the property consistent with the plan
37 submitted to the court. In making its determination that the proposed
38 reuse of the property is appropriate and beneficial, the court may
39 consult with qualified parties, including but not limited to the
40 municipal planner and representatives of non-profit entities in the area
41 in which the property is located.

42 g. The entity in possession shall be deemed to have an ownership
43 interest in the property for purposes of filing plans with public
44 agencies and boards, seeking and obtaining building permits and other
45 approvals, and submitting applications for financing or other assistance
46 to public or private entities. The entity shall have authority to borrow

1 funds and place liens on the property which shall have priority over
2 any liens other than governmental liens. For purposes of any State of
3 New Jersey program of grants or loans, including but not limited to
4 programs of the Department of Community Affairs and the Housing
5 and Mortgage Finance Agency, possession of a property under this
6 section shall be considered legal control of the property.

7 h. When the municipality has been designated the entity in
8 possession, it may seek the approval of the court to assign its rights to
9 another entity in possession, which approval shall be granted by the
10 court when it finds that (1) the entity to which the municipality's rights
11 will be assigned is a qualified rehabilitation entity as defined in P.L. ,
12 c. (C.) (pending before the Legislature as this bill), and (2) the
13 assignment will further the purposes of this section.

14 i. The entity in possession shall provide quarterly reports to the
15 court, and if an entity other than the municipality, to the municipality,
16 on its activities and progress toward rehabilitation and reuse of the
17 property. If the court finds that the entity in possession has failed to
18 take diligent action toward rehabilitation of the property within one
19 year from the grant of possession, the court may terminate the order
20 of possession, and return the property to its owner or vest possession
21 in another entity.

22 j. The owner can petition for restoration of the property at any
23 time after one year from the grant of possession, but no later than 30
24 days after the entity in possession has filed a Notice of Completion
25 with the court. Any petition for return of the property shall (a) include
26 a plan for completion of the rehabilitation and reuse of the property,
27 consistent with the plan previously approved by the court, (b) provide
28 legally binding assurances that the owner will comply with all
29 conditions of any grant or loan secured by the entity in possession, or
30 repay any such grants or loans in full, at the discretion of the maker of
31 the loan or grant, and (c) be accompanied by payment equal to the sum
32 of (i) all municipal liens outstanding on the property, (ii) all costs
33 incurred by the municipality in bringing action with respect to the
34 property, and (iii) any costs remaining to complete rehabilitation and
35 reuse of the property, as determined by the public officer, which
36 payment shall be placed in escrow with the Clerk of the Court pending
37 disposition of the petition.

38 k. The entity in possession shall file a Notice of Completion with
39 the court, and shall also serve a copy on the owner, at such time that
40 the entity has determined that no more than six months remain to the
41 anticipated date on which rehabilitation will be complete. Such notice
42 shall include an affidavit of the public officer attesting that rehabilitation
43 is realistically anticipated to be complete within that time period, and
44 a statement setting forth such actions as the entity plans to undertake
45 to ensure that reuse of the property takes place consistent with the
46 plan.

1 1. If the owner fails to petition for return of the property within 30
2 days after the entity in possession has filed a Notice of Completion, or
3 in any event within two years after the initial grant of possession, or
4 fails to meet any conditions, including those set forth in subsection i.
5 of this section, that may be set by the court for restoration of property,
6 upon petition from the entity in possession, the court may grant the
7 entity title, and extinguish all liens other than governmental liens. The
8 entity in possession may seek approval of the court for, and the court
9 may approve, conveyance of title to a third party rather than to the
10 entity in possession, when the court finds that such conveyance will
11 provide for the benefit of the public interest in fostering effective and
12 timely rehabilitation and reuse of the property.

13 m. Upon petition by the entity in possession, but at the sole
14 discretion of the municipal governing body, a municipality shall be
15 authorized to forgive any outstanding municipal liens on the property,
16 including but not limited to property taxes, sewer and water charges,
17 and special assessments, and shall further be authorized prospectively
18 or retrospectively to waive any taxes accrued during the period that
19 the entity is in possession, provided, however, that in the event the
20 owner obtains restoration of the property as set forth in subsection i.
21 of this section all outstanding taxes and liens as of the date of
22 restoration shall be due and payable in full, notwithstanding any
23 agreement entered into between the municipality and the entity in
24 possession under this section.

25 n. The remedies available under this section shall be available to
26 any municipality or qualified rehabilitation entity with respect to any
27 abandoned property, whether or not the municipality has established
28 an abandoned property list as provided in section 36 of P.L.1996, c.62
29 (C.55:19-55), or whether the property is listed on any such list.

30
31 6. (New section) a. Any municipality may create a Municipal
32 Land Reclamation Agency, for the purpose of vesting a single entity
33 with the comprehensive ability to address municipal property
34 acquisition and disposition issues, which agency can be (1) the agency
35 of municipal government authorized to exercise redevelopment powers
36 pursuant to P.L.1992, c.79 (C.40A:12A-1 et seq.), including a
37 Redevelopment Agency, Housing Authority, or a division or
38 department of the municipal government, (2) any other existing agency
39 of municipal government clearly charged with the mission of furthering
40 housing, economic development, or neighborhood revitalization, which
41 need not be the agency authorized to exercise redevelopment powers;
42 (3) an existing agency established within State or county government,
43 including a County Improvement Authority and the New Jersey
44 Redevelopment Authority, authorized by statute to exercise land
45 development or redevelopment powers; (4) a qualified nonprofit
46 entity, as defined herein; or (5) a new entity created by the

1 municipality, which may be established as a department of municipal
2 government, an independent public agency with a board of no less than
3 five and no more than nine commissioners appointed by the mayor to
4 be known as the(name of municipality)..... Land Reclamation
5 Agency, or a not-for-profit corporation.

6 b. The agency shall be established by ordinance, which shall specify
7 (1) the entity that is to be designated a Municipal Land Reclamation
8 Agency, (2) the specific powers and responsibilities that the agency
9 will exercise, and (3) if the agency is other than a division or
10 department of municipal government, the nature of any financial
11 agreements between the municipality and the agency. The provisions
12 of paragraphs (2) and (3) of this subsection may be amended by the
13 municipal governing body by ordinance at any time.

14 c. The municipality may assign any tax or other lien held by the
15 municipality to the agency, and may convey to the agency without
16 public bidding and at nominal cost any property owned by the
17 municipality.

18 d. The ordinance establishing the agency or any subsequent
19 amendatory ordinance may grant any or all of the following powers
20 and assign any or all of the following municipal authorities and powers
21 to the agency, at the sole discretion of the governing body:

22 (1) To foreclose on behalf of the municipality on any tax or other
23 liens assigned to the agency.

24 (2) To accept properties by gift on behalf of the municipality and
25 to acquire properties on behalf of the municipality through negotiation
26 and voluntary conveyance.

27 (3) To extinguish municipal liens in whole or part on properties
28 held by the agency.

29 (4) To exercise the power of eminent domain with respect to
30 abandoned properties pursuant to paragraph (2) of subsection c. of
31 section 37 of P.L.1996, c.62 (C.55:19-56).

32 (5) To exercise the power of eminent domain with respect to other
33 properties, but only pursuant to a resolution precedent specifying the
34 property or properties to be acquired adopted by the local governing
35 body.

36 (6) To sell or lease properties pursuant to the provisions of the
37 "Local Lands and Building Law," P.L.1971, c.199 (C.40A:12-1 et
38 seq.) or if in a redevelopment area, pursuant to the provisions of the
39 "Local Redevelopment and Housing Law," P.L.1992, c.79
40 (C.40A:12A-1 et seq.) at market value or at nominal cost, with or
41 without public bidding as provided by law.

42 (7) To administer on behalf of the municipality a program for
43 homesteading of abandoned properties pursuant to the provisions of
44 sections 13 through 20 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46 (8) To sell or lease properties at market value or at nominal cost,

1 with or without public bidding, to private individuals for the purposes
2 of rehabilitating abandoned property for owner occupancy pursuant to
3 the provisions of sections 13 through 20 of P.L. , c. (C.) (pending
4 before the Legislature as this bill)

5 (9) To enter into option agreements, contracts of sale, and other
6 agreements to acquire or to convey property.

7 (10) To act as or to designate the municipal public officer with
8 respect to carrying out any or all of the provisions of P.L. , c. (C.)
9 (pending before the Legislature as this bill) or the provisions of
10 sections 35 to 40 of P.L.1996, c.62 (C.55:19-54 through C.55:19-59),
11 including but not limited to preparing and maintaining an abandoned
12 property list pursuant to the provisions of section 36 of P.L.1996, c.62
13 (C.55:19-55).

14 (11) To maintain, demolish, repair or rehabilitate any properties
15 held by the agency.

16 (12) To carry out environmental investigations and remediation on
17 any property held by the agency.

18 (13) To seek, obtain and disburse funds from public and private
19 sources to carry out its responsibilities pursuant to the ordinance.

20 (14) To borrow funds to carry out its responsibilities pursuant to
21 the ordinance; provided, however, that no such borrowing shall be an
22 obligation of the municipality unless separately authorized by action
23 of the municipal governing body.

24 (15) To grant short-term tax abatements, including the tax
25 abatements provided in section 17 of P.L. , c. (C.) (pending before
26 the Legislature as this bill), subject to the provisions of a municipal
27 ordinance adopted pursuant to section 4 of P.L.1991, c.441
28 (C.40A:21-4) or the ordinance adopted pursuant to section 16 of
29 P.L. , c. (C.) (pending before the Legislature as this bill), with
30 respect to properties held by and disposed of by the agency.

31 (16) To exercise such other powers and authorities that the
32 municipal governing body may determine are necessary or desirable for
33 the agency to carry out its mission, and are not inconsistent with the
34 provisions of any other law.

35 e. With respect to each and every municipal power assigned to the
36 agency, the ordinance shall specify the decision-making authority for
37 the exercise of that power, which may be, as deemed appropriate, a
38 municipal department head, the mayor of the municipality, a board of
39 commissioners of an independent agency or authority, the board of
40 directors of a nonprofit entity, the chief executive officer of an
41 independent agency, authority or nonprofit entity, or the municipal
42 governing body.

43 f. A Municipal Land Reclamation Agency shall have the same
44 status as the municipality with respect to any provisions of State law
45 governing environmental remediation and environmental liability.

46 g. A Municipal Land Reclamation Agency shall have the same

1 status as the municipality with respect to any funding provided by any
2 agency of State government for which municipalities are eligible,
3 provided, however, that the agency may not seek any funds that place
4 any financial or administrative obligation on the municipality without
5 a resolution from the local governing body authorizing the application.

6 h. A Municipal Land Reclamation Agency shall not dispose of any
7 property for a use not consistent with the municipal master plan, or
8 any redevelopment plan or neighborhood revitalization plan adopted
9 by the municipality, and shall consult with neighborhood and
10 community organizations with respect to its property disposition
11 activities.

12 i. A Municipal Land Reclamation Agency, if other than the
13 municipal redevelopment agency created pursuant to the "Local
14 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
15 seq.), shall not exercise any power granted it within any
16 redevelopment area where the municipality has previously granted that
17 same power to the redevelopment agency, unless the board of
18 commissioners of the redevelopment agency has adopted a resolution
19 authorizing the Municipal Land Reclamation Agency to exercise such
20 power within the redevelopment area.

21 j. The agency shall retain such percentage of the funds it raises
22 through disposition of property or exercise of its other powers in order
23 to carry out its responsibilities as shall be determined by the governing
24 body and set forth in the ordinance establishing the agency.

25
26 7. (New Section) a. In any municipality which has created a
27 municipal historic commission by ordinance, the municipality shall not
28 demolish any abandoned structure until it has referred the proposed
29 demolition to the commission for its review and comment,

30 b. The commission shall provide its comments to the public officer
31 no more than 45 days after receiving the referral, during which period
32 the municipality shall take no action to demolish the property.

33 c. When the public officer has determined, on the basis of the
34 condition of the structure, that an emergency exists requiring the
35 immediate demolition of the structure, the public officer shall be
36 authorized to take immediate action, and shall not be required to refer
37 the proposed demolition to the commission.

38
39 8. Section 35 of P.L.1996, c.62 (C.55:19-54) is amended to read
40 as follows:

41 35. For the purposes of this article and for the purposes of P.L. ,
42 c. (C.) (pending before the Legislature as this bill):

43 ["Abandoned property" means

44 a. real property for which environmental remediation is required by
45 State law, rule or regulation and the condition of which is found or
46 declared by the public officer to be inimical to the welfare, including

1 the economic welfare of the residents of the municipality wherein the
2 real property is located; or

3 b. a building or structure found or declared to be inimical to the
4 welfare, including the economic welfare, of the residents of the
5 municipality wherein the building or structure is located, pursuant to
6 section 1 of P.L.1989, c.91 (C.40:48-2.3a) or unfit for human
7 habitation, occupancy or use pursuant to section 3 of P.L.1942, c.112
8 (C.40:48-2.5), along with the parcel of land upon which the building
9 or structure is situate.]

10 "Abandoned property" means any property that is not legally
11 occupied in whole or large part, and which meets any one of the
12 following additional criteria:

13 a. The property has not been legally occupied for a period of six
14 months, is in need of rehabilitation in the judgment of the public
15 officer, and has not been the subject of rehabilitation during that six
16 month period:

17 b. The property is eligible for tax foreclosure pursuant to any of
18 the provisions of the "tax sale law," R.S. 54:5-1 et seq. or the
19 provisions of P.L. , c. (pending before the Legislature as this bill);

20 c. The property has been determined to be a nuisance by the public
21 officer for good and valid reasons, which may include but shall not be
22 limited to the following:

23 (1) The property has been found to be unfit for human habitation,
24 occupancy or use, whether for residential or nonresidential purposes,
25 as appropriate;

26 (2) The condition and vacancy of the property, taking into account
27 the nature of the structure and its proximity to other structures,
28 increases the risk of fire to the property and adjacent properties;

29 (3) The property has been used at any time during the six month
30 period prior to the public officer's determination for illegal purposes,
31 including the consumption or sale of illegal substances, and the
32 conditions resulting in that use have not been corrected;

33 d. The owner has failed to secure the property, and it is subject to
34 unauthorized entry leading to potential health and safety hazards; or,
35 the municipality has secured the property in order to prevent such
36 hazards after the owner has failed to do so;

37 e. The presence of vermin, accumulations of debris, uncut
38 vegetation, or physical deterioration of the structure or grounds have
39 led to potential health and safety hazards, including the risk of fire;

40 f. The dilapidated appearance or other condition of the property
41 materially affects the welfare, including the economic welfare, of the
42 residents of the area in close proximity to the property.

43 "Public officer" with respect to any of the provisions of this article
44 and for any of the purposes of P.L. , c. (pending before the
45 Legislature as this bill) means either (a) a person designated or
46 appointed by the municipal governing body pursuant to section 3 of

1 P.L.1942, c.112 (C.40:48-2.5 [who is responsible for determining that
2 a property is abandoned] or (b) such other person qualified to carry
3 out the responsibilities of the public officer designated or appointed by
4 resolution of the municipal governing body, or appointed by a
5 Municipal Land Reclamation Agency pursuant to authority granted it
6 by the municipal governing body, who need not be an employee of the
7 municipality or a municipal agency, except that in municipalities
8 organized under the "mayor-council plan" of the "Optional Municipal
9 Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.) the officer may
10 be designated by the mayor. Notwithstanding any other provision of
11 law, nothing shall prevent a municipal governing body, or the mayor
12 when appropriate, from designating more than one public officer for
13 different purposes as provided by law.

14 (cf: P.L.1996, c.62, s.35)

15

16 9. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read
17 as follows:

18 36. a. A qualified municipality that has designated or appointed a
19 public officer pursuant to section [3 of P.L.1942, c.112
20 (C.40:48-2.5)] 35 of P.L.1996, c.62 (C.55:19-54) (pending before the
21 Legislature as section 8 of this bill), may adopt an ordinance directing
22 the public officer to undertake an inventory of abandoned property [in
23 those areas designated for redevelopment pursuant to the "Local
24 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
25 seq.)] throughout the municipality, or those parts of the municipality
26 as the governing body may designate by resolution. The ordinance
27 may direct the public officer to exclude from the inventory of
28 abandoned property that property for which the expense to the
29 municipality of determining the cost of environmental remediation
30 required under State or federal law would be excessive, in the
31 judgment of the municipal governing body. Each item of abandoned
32 property on the inventory shall include the tax block and lot number,
33 the name of the owner of record, if known, and the street address of
34 the lot.

35 b. In those municipalities in which an inventory has been conducted
36 in accordance with subsection a. of this section, the public officer shall
37 maintain a list of abandoned property, to be known as the "abandoned
38 property list." An abandoned property shall not be included on the
39 abandoned property list if rehabilitation is being performed in a timely
40 manner, as evidenced by building permits issued and diligent pursuit
41 of rehabilitation work authorized by said permits.

42 c. [(1) The Department of Community Affairs shall adopt rules and
43 regulations prescribing guidelines and criteria for determining if a
44 property is inimical to the welfare, including the economic welfare, of
45 the residents of the municipality wherein the building or structure is
46 located, pursuant to section 1 of P.L.1989, c.91 (C.40:48-2.3a) or

1 unfit for human habitation, occupancy or use pursuant to section 3 of
2 P.L.1942, c.112 (C.40:48-2.5), and whether such property is
3 undergoing rehabilitation in a timely manner within the meaning of
4 subsection b. of this section. The public officer shall apply such
5 standards in conducting any inventory pursuant to this section.]
6 (Deleted by amendment, P.L. _____, c. _____ (pending before the
7 Legislature as this bill))

8 (2) The Department of Community Affairs in conjunction with the
9 Department of Environmental Protection shall prepare an information
10 bulletin for distribution to every municipality describing the authority
11 of a municipality under existing statutes and regulations to repair,
12 demolish or otherwise deal with abandoned property.

13 d. (1) The public officer, within 10 days of the completion of the
14 abandoned property list, shall send a notice, by certified mail, return
15 receipt requested, and by regular mail, to the owner of record of every
16 property included on the list and shall cause the list to be published in
17 the official newspaper of the municipality, which publication shall
18 constitute public notice. The published and mailed notices shall
19 identify property determined to be abandoned setting forth the owner
20 of record, if known, the tax lot and block number and street address.
21 The public officer, in consultation with the tax collector, shall also
22 send out a notice by regular mail to any mortgagee, servicing
23 organization, or property tax processing organization that receives a
24 duplicate copy of the tax bill pursuant to subsection d. of R.S.54:4-64.
25 When the owner of record is not known for a particular property and
26 cannot be ascertained by the exercise of reasonable diligence by the tax
27 collector, notice shall not be mailed but instead shall be posted on the
28 property in the manner as provided in section 5 of P.L.1942, c.112
29 (C.40:48-2.7). The mailed notice shall indicate the factual basis for
30 the public officer's finding that the property is abandoned property as
31 that term is defined in section 35 of P.L.1996, c.62 (C.55:19-54) and
32 the rules and regulations promulgated thereunder, specifying the
33 information relied upon in making such finding. In all cases a copy of
34 the mailed or posted notice shall also be filed by the public officer in
35 the office of the county clerk or register of deeds and mortgages, as
36 the case may be, of the county wherein the property is situate. This
37 filing shall have the same force and effect as a notice of lis pendens
38 under N.J.S.2A:15-6. The notice shall be indexed by the name of the
39 property owner as defendant and the name of the municipality as
40 plaintiff, as though an action had been commenced by the municipality
41 against the owner.

42 (2) The authority or its subsidiaries, as appropriate, may reimburse
43 the municipality for the postage costs and search fees associated with
44 providing notice in accordance with paragraph (1) of this subsection
45 in accordance with procedures and rules promulgated by the
46 Department of Community Affairs.

1 e. An owner or lienholder may challenge the inclusion of his
2 property on the abandoned property list determined pursuant to
3 subsection b. of this section by appealing that determination to the
4 public officer within 30 days of the owner's receipt of the certified
5 notice or 40 days from the date upon which the notice was sent. An
6 owner whose identity was not known to the public officer shall have
7 40 days from the date upon which notice was published or posted,
8 whichever is later, to challenge the inclusion of a property on the
9 abandoned property list. For good cause shown, the public officer
10 shall accept a late filing of an appeal. Within 30 days of receipt of a
11 request for an appeal of the findings contained in the notice pursuant
12 to subsection d. of this section, the public officer shall schedule a
13 hearing for redetermination of the matter. Any property included on
14 the list shall be presumed to be abandoned property unless the owner,
15 through the submission of an affidavit or certification by the property
16 owner averring that the property is not abandoned and stating the
17 reasons for such averment, can demonstrate that the property was
18 erroneously included on the list. The affidavit or certification shall be
19 accompanied by supporting documentation, such as but not limited to
20 photographs, repair invoices, bills and construction contracts. The
21 sole ground for appeal shall be that the property in question is not
22 abandoned property as that term is defined in section 35 of P.L.1996,
23 c.62 (C.55:19-54). The public officer shall decide any timely filed
24 appeal within 10 days of the hearing on the appeal and shall promptly,
25 by certified mail, return receipt requested, and by regular mail, notify
26 the property owner of the decision and the reasons therefor.

27 f. The property owner may challenge an adverse determination of
28 an appeal with the public officer pursuant to subsection e. of this
29 section, by instituting, in accordance with the New Jersey Court Rules,
30 a summary proceeding in the Superior Court, Law Division, sitting in
31 the county in which the property is located, which action shall be tried
32 de novo. Such action shall be instituted within 20 days of the date of
33 the notice of decision mailed by the public officer pursuant to
34 subsection e. of this section. The sole ground for appeal shall be that
35 the property in question is not abandoned property as that term is
36 defined in section 35 of P.L.1996, c.62 (C.55:19-54). The failure to
37 institute an action of appeal on a timely basis shall constitute a
38 jurisdictional bar to challenging the adverse determination, except that,
39 for good cause shown, the court may extend the deadline for
40 instituting the action.

41 g. The public officer shall promptly remove any property from the
42 abandoned property list that has been determined not to be abandoned
43 on appeal.

44 h. Any municipality which has not adopted an ordinance directing
45 the public officer to create an inventory of abandoned property and
46 create an abandoned property list within seven years after the effective

1 date of P.L.1996, c.62 or one year after the effective date of P.L. , c.
2 (pending before the Legislature as this bill), whichever is sooner, shall
3 be required to adopt such an ordinance if a petition demanding
4 adoption of such an ordinance, in such form as the Department of
5 Community Affairs shall specify by regulation, is submitted to the
6 municipal clerk containing valid signatures of municipal residents equal
7 to 5 percent of the number of voters in the last election for municipal
8 offices, but in no event fewer than 100 signatures in a municipality
9 with a population of 1,000 persons or more. The ordinance shall be
10 adopted no less than 90 days after the municipal clerk certifies that the
11 petition contains the minimum number of valid signatures required by
12 this section.

13 i. Any interested party may submit in writing a request to the
14 public officer that a property be included on the list of abandoned
15 properties, specifying the street address and block and lot number of
16 the property to be included, and the grounds for its inclusion. Within
17 30 days of receipt of any such request, the public officer shall provide
18 a written response to the party, either indicating that the property will
19 be added to the list of abandoned properties, or if not, the reasons for
20 not adding the property to the list. For purposes of this section,
21 "interested party" shall include any resident of the municipality, any
22 owner or operator of a business within the municipality, or any
23 organization representing the interests of residents, or engaged in
24 furthering the revitalization and improvement of the neighborhood in
25 which the property is located.

26 j. Any interested party, as defined in subsection i. above shall have
27 the right to participate in any redetermination hearing held by the
28 public officer pursuant to subsection e. of this section. Upon written
29 request by any interested party, the public officer shall provide the
30 party with at least 20 days' notice of any such hearing of its intention
31 to participate, and the nature of the testimony or other information
32 that it proposes to submit at the hearing.

33 (cf: P.L.1996, c.62, s.36)

34
35 10. Section 37 of P.L.1996, c.62 (C.55:19-56) is amended to read
36 as follows:

37 37. a. Notwithstanding R.S.54:5-19 or the provisions of any other
38 law to the contrary, if a property is included on the abandoned
39 property list and the property taxes or other municipal liens due on the
40 property are delinquent [six] two or more quarters as of the date of
41 expiration of the right to appeal inclusion on the list, or, if an appeal
42 has been filed, as of the date that all opportunities for appeal of
43 inclusion on the list have been exhausted, then the tax lien on the
44 property may be sold in accordance with the procedures in the "tax
45 sale law," R.S.54:5-1 et seq., on or after the 90th day following the
46 expiration of that time of appeal or final determination on an appeal,

1 as appropriate. The purchaser of a tax sale certificate sold pursuant
2 to this subsection, unless it is the municipality, a Municipal Land
3 Reclamation Agency, or the authority or its subsidiaries, shall be
4 required to post bond to guarantee the rehabilitation of the property
5 in accordance with the requirements for an owner to remove the
6 property from the abandoned property list pursuant to section 36 of
7 P.L.1996, c.62 (C.55:19-55). The cost of the bond posted by the
8 purchaser of the tax sale certificate shall be added to the amount
9 required to be paid by the owner for redemption of the property. The
10 municipality may, at its option, require that the sale of the tax sale
11 certificate or any subsequent assignment or transfer of a tax sale
12 certificate held by the municipality be subject to the express condition
13 that the purchaser or assignee shall be obliged to perform and
14 conclude any rehabilitation or repairs necessary to remove the
15 property from the abandoned property list pursuant to section 36 of
16 P.L.1996, c.62 (C.55:19-55) and to post a bond in the amount of 125
17 percent of the cost of rehabilitation as determined by the public officer
18 in favor of the municipality to guarantee the rehabilitation or repair of
19 the property. The cost of rehabilitation and repairs and the cost of the
20 bond shall be added to the amount required to be paid by the owner
21 for redemption of the property. The purchaser, assignee or transferee
22 of the tax sale certificate who is required to rehabilitate and repair the
23 property shall be required to file the appropriate affidavits with the tax
24 collector, pursuant to R.S.54:5-62, representing the amounts of
25 moneys expended periodically toward the rehabilitation or repair of the
26 property. A purchaser, assignee or transferee shall be entitled to
27 interest on the amounts expended, as set forth in the affidavits, at the
28 delinquent rate of interest for delinquencies in excess of \$1,500
29 pursuant to R.S.54:4-67 of the municipality in effect for the time
30 period when the amounts were expended. The tax sale certificate
31 purchaser, assignee or transferee, under the auspices and with the
32 authority of the municipality, shall be permitted to enter in and upon
33 the property for the purposes of appraising the costs of rehabilitation
34 and repair and to perform all other acts required to guarantee the
35 completion of the rehabilitation or repair of the property. No
36 rehabilitation or repair work shall be commenced, however, until proof
37 of adequate liability insurance and an indemnification agreement
38 holding the municipality harmless is filed with the public officer. If the
39 tax sale certificate is not purchased at the initial auction of the tax sale
40 certificate and the municipality purchases the certificate pursuant to
41 R.S.54:5-34, then the municipality is authorized and empowered to
42 convey and transfer to the Municipal Land Reclamation Agency or the
43 authority or any of its subsidiaries, without receiving compensation
44 therefor, all of its right, title and interest in that certificate ; however,
45 any portion of the amount paid to the tax collector to redeem the tax
46 sale certificate that represents tax or other municipal lien delinquencies

1 and subsequent municipal liens, including interest, shall be returned by
2 the tax collector to the municipality.

3 b. (1) If the municipality, the Municipal Land Reclamation Agency,
4 or the authority or its subsidiaries acquires the tax sale certificate for
5 a property on the abandoned property list, then, upon 10 days' written
6 notice to the property owner and any mortgagee as of the date of the
7 filing of the lis pendens notice under subsection d. of section 36 of
8 P.L.1996, c.62 (C.55:19-55), that entity shall be permitted to enter
9 upon the property and remediate any conditions that caused the
10 property to be included on the abandoned property list. No
11 remediation shall be commenced, however, if within that 10-day period
12 the owner or mortgagee shall have notified the municipality or
13 authority or its subsidiary, as appropriate, in writing that the owner or
14 mortgagee has elected to perform the remediation itself. When the
15 owner or mortgagee elects to perform the remediation itself, it shall be
16 required to post bond in favor of the municipality, the Municipal Land
17 Reclamation Agency, or authority or its subsidiaries, as appropriate,
18 in order to ensure performance. The amount and conditions of the
19 bond shall be determined by the public officer but shall be no less than
20 125 percent of the cost of rehabilitation as determined by the public
21 officer.

22 (2) The cost of remediation incurred by the municipality or the
23 authority or its subsidiaries pursuant to this subsection, as so certified
24 by the entity incurring the cost upon completion of the remediation,
25 shall constitute a lien upon the property first in time and right to any
26 other lien, whether the other lien was filed prior to, or after the filing
27 of any lien by the municipality or the authority, except for municipal
28 taxes, liens and assessments and any lien imposed pursuant to the
29 "Spill Compensation and Control Act," P.L.1976, c.141
30 (C.58:10-23.11 et seq.), together with any interest thereon. The
31 certification of cost shall be filed and recorded as a lien by the entity
32 incurring the cost with the county clerk or register of deeds and
33 mortgages, as appropriate, in the county in which the property is
34 located.

35 (3) Any lien placed against any real property pursuant to the
36 provisions of subsection (f) of section 3 of P.L.1942, c.112 (C.40:48-
37 2.5) shall constitute a lien upon the property first in time and right to
38 any other lien, whether the other lien was filed prior to, or after the
39 filing or any lien by the municipality, except for any lien imposed
40 pursuant to the "Spill Compensation and Control Act," P.L.1976,
41 c.141 (C.58:10-23.11 et seq.) together with any interest thereon. The
42 municipality may institute an action to foreclose the right of
43 redemption at any time after the expiration of 60 days after the filing
44 of the lien certificate.

45 c. Notwithstanding any provision of the "tax sale law," R.S.54:5-1
46 et seq., municipalities shall be authorized to hold a special tax sale

1 limited to properties eligible for tax sale subject to the provisions of
2 subsection a. of this section. Municipalities electing to hold such a
3 special tax sale shall conduct said sale subject to the following
4 provisions:

5 (1) The municipality shall establish criteria for eligibility to bid on
6 properties at the sale, which may include, but shall not be limited to,
7 documentation of the bidder's ability to rehabilitate or otherwise reuse
8 the property consistent with municipal plans and regulations;
9 commitments by the bidder to rehabilitate or otherwise reuse the
10 property, consistent with municipal plans and regulations;
11 commitments by the bidder to take action to foreclose on the tax lien
12 by a date certain; and such other criteria as the municipality may
13 determine are necessary to ensure that the properties to be sold will be
14 rehabilitated or otherwise reused in a manner consistent with the
15 public interest;

16 (2) The municipality may establish minimum bid requirements for
17 a special tax sale that may be less than the full amount of the taxes,
18 interest and penalties due, the amount of such minimum bid to be at
19 the sole discretion of the municipality, in order to ensure that the
20 properties to be sold will be rehabilitated or otherwise reused in a
21 manner consistent with the public interest;

22 (3) The municipality may combine properties into bid packages,
23 and require that bidders place a single bid on each package, and reject
24 any and all bids on individual properties that have been included in bid
25 packages;

26 (4) The municipality may sell properties subject to provisions that,
27 if the purchaser fails to carry out any commitment that has been set
28 forth as a condition of sale pursuant to paragraph (1) of subsection c.
29 of this section, or misrepresents any material qualification that has
30 been established as a condition of eligibility to bid pursuant to
31 paragraph (1) of subsection c. of this section, the properties and any
32 interest thereto acquired by the purchaser shall revert to the
33 municipality, and any amount paid by the purchaser to the municipality
34 at the special tax sale shall be forfeit to the municipality.

35 [c.] d. (1) Failure of an owner or lienholder to remove a property
36 from the abandoned property list within 60 days after expiration of the
37 period of time for appeal of inclusion of the property on the list
38 pursuant to subsection e. of section 36 of P.L.1996, c.62
39 (C.55:19-55), shall be prima facie evidence of the intent of the owner
40 to continue to maintain the property as abandoned property.

41 (2) The clearance, development, redevelopment, or repair of
42 property being maintained as an abandoned property pursuant to
43 paragraph (1) of this subsection shall be a public purpose and public
44 use for which the power of eminent domain may be exercised. With
45 respect to any eminent domain proceeding carried out under the
46 authority of this subsection, the fair market value of the property shall

1 be established on the basis of an analysis which determines
2 independently: (a) the cost to rehabilitate and reuse the property for
3 such purpose as is appropriate under existing planning and zoning
4 regulations governing its reuse, or to demolish the existing property
5 and construct a new building on the site, including all costs ancillary
6 to rehabilitation such as but not limited to marketing and legal costs;
7 (b) the realistic market value of the reused property after rehabilitation
8 or new construction, taking into account the market conditions
9 particular to the neighborhood or subarea of the municipality in which
10 the property is located; and (c) the extent to which the cost exceeds
11 or does not exceed the market value after rehabilitation, or demolition
12 and new construction, and the extent to which any "as is" value of the
13 property prior to rehabilitation can be added to the cost of
14 rehabilitation or demolition and new construction without the resulting
15 combined cost exceeding the market value as separately determined.
16 If the appraisal finds that the cost of rehabilitation or demolition and
17 new construction, as appropriate, exceeds the realistic market value,
18 there shall be a rebuttable presumption in all proceedings under this
19 subsection that the fair market value of the abandoned property is
20 zero, and that no compensation is due the owner.

21 e. (1) When an abandoned property is located adjacent to or in
22 close proximity to the construction or rehabilitation of one or more
23 buildings for residential, commercial or institutional purposes being
24 undertaken by a nonprofit entity for the purpose of providing
25 affordable housing or furthering the revitalization of the neighborhood,
26 and that property, by virtue of its condition, appearance, or other
27 factors, will have a material effect on the health, safety and quality of
28 life of the residents in the development; and when the abandoned
29 property is in private hands, and the nonprofit entity has made a good
30 faith effort to acquire the property through negotiation without
31 success, the entity may petition the municipality to acquire the
32 property on its behalf through exercise of the power of eminent
33 domain as provided in subsection d. of this section.

34 (2) If, notwithstanding the petition by the entity, the municipality
35 fails to authorize the acquisition of the property and the use of eminent
36 domain within 90 days, or fails subsequently to initiate and complete
37 proceedings for acquisition of the property in timely fashion, the entity
38 may file a motion in Superior Court seeking an order granting the
39 entity the power to exercise eminent domain with respect to the
40 property. In filing such motion, the entity shall set forth with
41 specificity how the property in its present condition will materially
42 affect the health, safety or quality of life of the residents in the
43 development, and how no alternative to eminent domain is available to
44 remedy this condition.

45 (3) Any nongovernmental entity exercising the power of eminent
46 domain pursuant to this section shall be governed by all of the

1 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
2 (C.20:3-1 et seq.).

3 f. The exercise of the power of eminent domain pursuant to
4 subsections d. and e. of this section shall be available with respect to
5 any abandoned property, whether or not the municipality in which it
6 is located has established an abandoned property list as provided in
7 section 36 of P.L.1996, c.62 (C.55:19-55), or whether the property is
8 listed on any such list.

9 (cf: P.L.1996, c.62, s.37)

10

11 11. Section 38 of P.L.1996, c.62 (C.55:19-57) is amended to read
12 as follows:

13 38. a. An owner may remove a property from the list of abandoned
14 properties prior to sale of the tax sale certificate by paying all taxes
15 and municipal liens due, including interest and penalties and:

16 (1) by posting cash or a bond equal to 125 percent of the cost of
17 remediating all conditions because of which the property has been
18 determined to be abandoned pursuant to section 36 of P.L.1996, c.62
19 (C.55:19-55) and posting cash or a bond to cover the cost of any
20 environmental cleanup required on the property, evidenced by a
21 certification by a licensed engineer retained by the owner and reviewed
22 and approved by the public officer stating that the cash or bond
23 **[adequately covers]** represents at least 125 percent of the cost of the
24 cleanup; or

25 (2) by demonstrating to the satisfaction of the public officer that the
26 conditions rendering the property abandoned have been remediated in
27 full; provided, however, that where the public officer finds that the
28 owner is actively engaged in remediating the conditions because of
29 which the property was determined to be abandoned pursuant to
30 section 36 of P.L.1996, c.62 (C.55:19-55), as evidenced by significant
31 rehabilitation activity on the property, the public officer may grant an
32 extension of time of not more than 120 days for the owner to complete
33 all work, during which time no further proceedings will be taken
34 against the owner or the property.

35 b. If the owner has posted cash or a bond in order to have a
36 property removed from the abandoned property list and the conditions
37 because of which the property was determined to be abandoned have
38 not been fully remediated within one year of the date of posting the
39 cash or bond, or, in the case of a property which requires a
40 remediation of any known, suspected or threatened release of
41 contaminants, if the owner has failed to enter into a memorandum of
42 agreement with the Department of Environmental Protection or an
43 administrative consent order, as the case may be, or if an agreement or
44 order is in effect but the owner has failed to perform the remediation
45 in conformance with the agreement or order, then the cash or bond
46 shall be forfeited to the municipality which shall use the cash or bond

1 and any interest which has accrued thereon for the purpose of
2 demolishing or rehabilitating the property or performing the
3 environmental remediation. Any funds remaining after the property
4 has been demolished, rehabilitated or cleaned up, as the municipality
5 shall determine to be appropriate at its sole discretion, shall be
6 returned to the owner.

7 (cf: P.L.1996,c.62,s.38)

8

9 12. Section 39 of P.L.1996, c.62 (C.55:19-58) is amended to read
10 as follows:

11 39. a. When a person other than the municipality, the Municipal
12 land Reclamation Agency, or the authority or its subsidiaries acquires
13 a tax sale certificate for a property on the abandoned property list at
14 tax sale, the purchaser may institute an action to foreclose the right of
15 redemption at any time after the expiration of six months following the
16 date of the sale of the tax sale certificate.

17 b. Notwithstanding section 6 of P.L.1948, c.96 (C.54:5-104.34),
18 when the municipality or the Municipal Land Reclamation Agency is
19 the purchaser at tax sale of any property on the abandoned property
20 list pursuant to R.S.54:5-34, or when the Municipal Land Reclamation
21 Agency acquires the tax sale certificate pursuant to section 6 of
22 P.L. , c. (C.) (pending before the Legislature as this bill), or
23 the authority or any of its subsidiaries acquires the tax sale certificate
24 pursuant to subsection a. of section 37 of P.L.1996, c.62
25 (C.55:19-56), an action to foreclose the right of redemption may be
26 instituted in accordance with the provisions of subsection b. of
27 R.S.54:5-77.

28 c. After the foreclosure action is instituted, the right to redeem
29 shall exist and continue to exist until barred by the judgment of the
30 Superior Court; provided, however, that no redemption shall be
31 permitted except where the owner:

32 (1) posts cash or a bond equal to 125 percent of the cost of
33 remediating the conditions because of which the property was
34 determined to be abandoned pursuant to section 36 of P.L.1996, c.62
35 (C.55:19-55), as determined by the court pursuant to recommendation
36 by the public officer; or

37 (2) demonstrates to the court that the conditions because of which
38 the property was determined to be abandoned pursuant to section 36
39 of P.L.1996, c.62 (C.55:19-55) have been remedied in full.

40 (cf: P.L.1996, c.62, s.39)

41

42 13. (New section) Sections 13 through 20 of this bill shall be
43 known as the "Homesteading of Abandoned Properties Act."

44

45 14. (New section) The Legislature finds that:

46 a. The rehabilitation of abandoned properties in New Jersey's urban

1 areas for home ownership by families and individuals of all income
2 levels furthers neighborhood and urban revitalization, and is deemed
3 a public purpose.

4 b. The success of a homesteading program has been hindered by
5 significant financial obstacles which exist to the rehabilitation of
6 abandoned properties, particularly in blighted inner-city
7 neighborhoods.

8 c. It is appropriate in light of the public benefits derived from the
9 rehabilitation of abandoned properties for home ownership to provide
10 incentives for families and individuals to undertake such efforts.

11
12 15. (New section) As used in sections 13 through 20 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill):

14 "Eligible municipality" means any municipality with an individual
15 poverty rate according to the 2000 federal decennial census of greater
16 than 20 percent and an equalized municipal tax rate for 2001 of more
17 than \$1.50.

18 "Homesteading" means the purchase of an abandoned property
19 containing one to four dwelling units by one or more individuals
20 constituting or heading a household and the rehabilitation of that
21 property for use as the principal residence of the household.

22 "Household" means one or more individuals, who may or may not
23 be related by blood, marriage or adoption, jointly occupying a housing
24 unit in a non-commercial relationship.

25 "Abandoned property" means any property that is either on the
26 municipal abandoned property list, or otherwise certified as abandoned
27 by the public officer, pursuant to the definition of abandoned property
28 in section 3 of P.L. , c. (C.) (pending before the Legislature as
29 this bill).

30
31 16. (New section) A municipality may, by ordinance, establish a
32 program for the homesteading of abandoned properties in all or part
33 of the municipality. Any municipality which enacts such an ordinance
34 shall designate in that ordinance a department or agency of the
35 municipality, or the Municipal Land Reclamation Agency, to
36 administer the program, and shall specify whether the program will
37 apply to the entire municipality or to selected areas, which shall be
38 clearly set forth in the ordinance. None of the provisions of sections
39 17 through 19 of P.L. , c. (C.) (pending before the Legislature as
40 this bill) shall take effect in any municipality prior to the enactment of
41 such ordinance, nor shall a municipality be eligible to apply for the
42 "Targeted Neighborhood Rehabilitation Assistance Program,"
43 established by section 20 of P.L. , c. (C.) (pending before the
44 Legislature as this bill) prior to the enactment of the ordinance.

45
46 17. (New section) Any municipality which has adopted an

1 ordinance providing for the homesteading of abandoned properties
2 pursuant to section 16 of P.L. , c. (C.) (pending before the
3 Legislature as this bill) may, by resolution, with respect to any such
4 property: a. waive all property taxes on both land and improvements
5 during the period that the property is undergoing rehabilitation, but for
6 no more than three years; b. enter into a tax abatement agreement
7 upon the completion of rehabilitation under which up to the entire
8 value of improvements is abated for a period of up to five years after
9 receipt of the certificate of occupancy; c. authorize a further tax
10 abatement agreement, for a term of up to five years, commencing on
11 the date that the tax abatement agreement set forth in subsection b. of
12 this section expires, under which full property taxes on the improved
13 value of the property shall be phased in proportionate steps during the
14 term of the agreement.

15

16 18. (New section) Notwithstanding any other provision of law, any
17 municipality which has adopted an ordinance providing for the
18 homesteading of abandoned properties pursuant to section 16 of
19 P.L. , c. (C.) (pending before the Legislature as this bill) may,
20 according to the procedure established by law, appropriate general
21 revenues or make available proceeds from general obligation bonds or
22 notes for the purpose of making grants or loans to households
23 participating in the municipality's program for homesteading of
24 abandoned properties.

25

26 19. (New section) Notwithstanding any other provision of law, a
27 municipality shall not prevent the owner of an abandoned property that
28 meets the criteria of the program and that is purchased from the
29 municipality, the Municipal Land Reclamation Agency, or a not-for-
30 profit entity, from occupying that property as the owner's principal
31 residence, provided that the owner presents a plan to the public officer
32 for the rehabilitation of the property in a timely fashion, and certifies
33 to the public officer that the owner is rehabilitating the property for
34 the owner's use as owner-occupant; that no part of the property will
35 be rented as a separate unit prior to receipt of a certificate of
36 occupancy from the municipality; and that the integrity of the structure
37 is intact; provided that the public officer may require the owner to
38 obtain a structural inspection by a licensed engineer in addition to this
39 certification. The public officer may require the owner to provide a
40 waiver of municipal liability as part of the certification.

41

42 20. (New section) A pilot program to be known as the "Targeted
43 Neighborhoods Rehabilitation Assistance Program" is hereby
44 established in the Department of Community Affairs as follows:

45 a. The Commissioner of Community Affairs shall, within 120 days
46 of the effective date of P.L. , c. (C.) (pending before the

1 Legislature as this bill) invite proposals from eligible municipalities to
2 have neighborhoods designated as target neighborhoods for this
3 program. Each proposal must identify a single target neighborhood in
4 the eligible municipality, which neighborhood shall have an estimated
5 population of no more than 10,000, and establish why the particular
6 features of the neighborhood, with respect to both distress and
7 opportunity, make it an appropriate candidate for the program. The
8 proposal shall include an inventory of abandoned property in the
9 proposed target neighborhood, showing how such properties are
10 suitable and desirable for owner occupancy. The proposal shall also
11 specify in detail the actions that the eligible municipality has taken in
12 the past, is currently taking, and will take in the future, including but
13 not limited to tax abatements under section 17 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), to foster the revitalization
15 of the neighborhood generally, and increase home ownership by people
16 of all income levels in the neighborhood, in particular. Based on a
17 careful and objective review of the proposals, the commissioner shall
18 designate six neighborhoods as target neighborhoods for this program.
19 No more than one target neighborhood shall be located in any one
20 eligible municipality.

21 b. Within each target neighborhood designated by the
22 commissioner, a maximum of 50 households participating in the
23 homesteading of abandoned properties program pursuant to sections
24 13 through 20 of P.L. , c. (C.) (pending before the Legislature as
25 this bill), who purchased the property after the effective date of
26 P.L. , c. (C.) (pending before the Legislature as this bill) shall
27 be eligible to receive a rebate from the State in an amount equal to 25
28 percent of the household's cost of rehabilitation, based on documented
29 costs, up to a maximum amount of \$25,000. The rebate shall be
30 payable in three equal annual installments, the first to be paid no later
31 than 90 days following receipt of the household's application, and the
32 second and third on or about the anniversary of the first installment;
33 except that should the household cease to own and occupy the
34 property prior to receipt of all installments, they shall forfeit any right
35 to the installments due after they cease to own and occupy the
36 property.

37 c. The application shall be on a form prepared by the Department
38 of Community Affairs, and may be submitted at any time within one
39 year after the date of receipt of a certificate of occupancy for the
40 property. The applicant shall attach a copy of the certificate of
41 occupancy, a certificate that the property meets the criteria of the
42 program from the public officer, and documentation of rehabilitation
43 costs. In the case of work performed by the owner or other
44 volunteers, the value of the work shall be established by a report by
45 the public officer or a qualified construction inspector or estimator.

46 d. Pursuant to the "Administrative Procedure Act," P.L.1968,

1 c.410 (C.52:14B-1 et seq.), the Commissioner of Community Affairs
2 shall adopt regulations to implement the provisions of this section.
3 e. This pilot program shall remain in effect for ten years from the
4 effective date of P.L. , c. (C.) (now pending before the
5 Legislature as this bill). At the end of the third year, the
6 Commissioner of Community Affairs shall evaluate the effectiveness
7 of the pilot program. If the commissioner deems the program to be
8 successful, the commissioner may expand the qualifications for
9 eligible municipalities for years four through ten of the pilot program
10 to include such number of additional municipalities in the pilot
11 program as the commissioner deems appropriate, given the levels of
12 distress and the number of abandoned properties in those
13 municipalities. The program may be extended for an additional ten
14 years, upon a finding by the commissioner that the public purpose
15 would be served by such extension and recommendation to the
16 Governor, by executive order.

17

18 21. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill establishes the authority of municipalities to determine that
24 abandoned properties are a nuisance and then to seek a court order to
25 require that the nuisance conditions be abated through immediate
26 demolition, stabilization or repair. If the property's owner fails to
27 comply with the court order, the municipality may seek provisional
28 title to the property.

29 The bill authorizes a municipality to create, by ordinance, a
30 Municipal Land Reclamation Agency in order to vest in a single entity
31 the comprehensive ability to address municipal property acquisition
32 and disposition issues.

33 The bill also establishes incentives for homesteading of abandoned
34 properties and creates a pilot program to designate target
35 neighborhoods in eligible municipalities. In these target
36 neighborhoods, households will be eligible to receive rebates from the
37 State in an amount equal to 25 percent of the household's cost of
38 rehabilitating an abandoned property which the household will occupy.
39 Under the definition of "eligible municipality" in the bill, six
40 municipalities would qualify: Camden, Asbury Park, Paterson, Union
41 City, Passaic, and Trenton.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1675**

STATE OF NEW JERSEY

DATED: JUNE 9, 2003

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1675.

The Senate Committee Substitute for Senate Bill No. 1675 would extend the authority of municipalities to determine that abandoned properties are a nuisance and require that the nuisance conditions be abated through immediate demolition, stabilization or repair.

The committee substitute establishes a standard according to which certain properties may be deemed to be abandoned by the public officer. Specifically, a property which may be deemed abandoned under the bill, would be one which has not been legally occupied for a period of six months and which meets one of the following additional criteria: (1) the property is in need of rehabilitation and has not been rehabilitated during the period it has been unoccupied; (2) construction has been initiated on the property in the past, but not for that six month period; (3) the property has been in tax arrearage for at least one installment period; or (4) the property has been determined to be a nuisance by the public officer. A public officer who deems a property to be abandoned is obligated under the bill to follow those notification procedures which are currently required when a property is determined to be a nuisance under P.L.1942, c.112.

The committee substitute enumerates the various circumstances under which a public officer may determine a property to be a nuisance, which include a finding that the property is unfit for human habitation under section 1 of P.L.1942, c.112 (C.40:48-2.3) and a series of deleterious conditions which render the property a fire hazard or potential health and safety hazard.

The committee substitute establishes two exceptions from this determination of abandonment which relate to the purchase or taking assignment of a tax sale certificate by an entity other than the municipality and the vacancy of a property used on a seasonal basis.

The committee substitute establishes a procedure which follows from a municipal finding that an abandoned property is in need of rehabilitation and in the event that the owner or any mortgage holder or lien holder has failed to take action to further the rehabilitation of the property, culminating in the acquisition of possession of the

property by the municipality, mortgage holder or lien holder.

This process is initiated with the filing by the municipality of a complaint in Superior Court seeking an order granting it possession of the property for the purpose of pursuing its rehabilitation and reuse. This complaint shall include documentation that the property is on the abandoned property list or a certification by the public officer that the property is abandoned. The complaint shall also include a statement by an individual holding appropriate professional qualifications attesting to the reasons that the building should be rehabilitated rather than demolished. The bill requires the municipality to provide at least 30 days' notice to the owner prior to filing the complaint.

An owner may defend against the complaint by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125 percent of the amount determined by the public officer to represent the projected cost of rehabilitation. The bill sets forth the required contents of such a plan, which includes a financial feasibility analysis, a budget and timetable for rehabilitating the property, and documentation of the qualifications of the individuals and firms that will effectuate the rehabilitation. The court shall approve any plan that is realistic and likely to result in the expeditious rehabilitation and reuse of the property and, correspondingly, disapprove any plan which is unrealistic. If the court approves the owner's plan, it may appoint the public officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, the public officer shall notify the court, which may order to bond forfeit, grant the entity possession of the property, and authorize the municipality to use the proceeds of the bond for rehabilitation of the property. The owner shall provide quarterly reports to the municipality and the court on the owner's progress toward rehabilitation and reuse of the property.

If an owner fails to successfully defend against a complaint, a mortgage holder or lien holder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions described above. If no mortgage holder or lienholder meets these conditions, the municipality shall submit a plan, which shall designate that entity which shall implement the plan. This entity may be the municipality or a qualified rehabilitation entity, defined in the bill as an entity organized or authorized to do business under New Jersey law, which shall have as one of its purposes the construction or rehabilitation or residential or non-residential buildings, the provision of affordable housing and the restoration of abandoned property, among others.

If the municipality is granted possession of a property under this committee substitute, the municipality shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and any State program of grants or loans. Where the municipality borrows funds for the express purpose of rehabilitating

the property, the court may authorize the municipality to grant a lien or security interest with priority over all other liens or mortgages other than municipal liens.

The municipality is authorized to seek court approval to assign its rights to another entity, which may be granted under the circumstances enumerated in the committee substitute. The municipality shall provide quarterly reports to the court and if a qualified rehabilitation entity is designated by the municipality to implement the plan, these reports shall also be filed with the municipality.

The committee substitute sets forth a process whereby an owner may petition for reinstatement of the owner's control and possession of the property, what the petition shall include, and what requirements the court may impose as a condition for reinstating those rights.

In the event that the municipality sells the property, the committee substitute sets forth the order of distribution of the proceeds of such a sale. The committee substitute authorizes the public officer, with the approval of the court, to place a lien on the property to cover any costs of the municipality incurred prior to the granting by the court of an order of possession, which may include costs incurred to stabilize or secure the property.

The committee substitute authorizes municipalities to hold special tax sales with respect to those properties eligible for tax sale under R.S.54:5-19 which are also on an abandoned property list and sets forth procedures governing those special tax sales. In the case of any eminent domain proceeding carried out under section 37 of P.L.1966, c.62 (C.55:19-56), the committee substitute establishes the parameters for establishing fair market value.

The committee substitute amends various provisions of P.L.1996, c.62 to bring the existing definition of abandoned property into conformance with the new definition of this term being sought by this committee substitute. Various procedural changes are being proposed regarding how properties are added to the abandoned property list; in addition, interested parties are authorized to request that properties be included on the abandoned property list.

Finally, the committee substitute authorizes the voters of any municipality which has not adopted an ordinance to create an abandoned property list the power to initiate such an ordinance through a petition process. Such a petition would require the signature of a number of the legal voters of the municipality equal in number to five percent of the total votes cast in the last election at which municipal officials were elected, but in no event fewer than 100 legal voters in a municipality with a population of 1,000 persons or more.

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1675

with Senate Floor Amendments
(Proposed By Senator RICE)

ADOPTED: JUNE 16, 2003

These floor amendments make various procedural changes to the language governing the role of the courts in overseeing the process through which ownership of abandoned property may be granted to a mortgage holder, lien holder or municipality under the terms set forth in the committee substitute.

Specifically, these amendments provide for a determination by the public officer that a property is abandoned as opposed to a finding so that it is clear that the public officer is adhering to a standard established by law as opposed to making an independent determination.

The amendments clarify the action a court is to take in authorizing a municipality to take possession of an abandoned property. Additionally, the amendments establish the municipality's obligation to file a note of intention to take possession of an abandoned building and the contents of such a notice. This notice is to inform the owner and interested parties of the grounds for the determination that the property is abandoned and the conditions an owner must fulfill in order to seek reinstatement of ownership of the property.

The amendments clarify what happens if the owner fails to carry out any step in the approved plan submitted by the owner to the court in order to defend a complaint filed by the municipality. Rather than requiring quarterly reports to the court on the part of a municipality, qualified rehabilitation entity, owner or lien holder, the amendments require those reports that the court specifies to be filed by the appropriate party.

The amendments clarify that, notwithstanding the granting of possession by the court to a municipality of a property determined to be abandoned, the owner shall continue to be responsible for all taxes or other municipal liens and charges, or mortgages or liens to any party, incurred on the property, whether those taxes, charges or liens are incurred before or after the granting of possession. Nor shall the owner be relieved of any operating or maintenance expense associated with the property. Similarly, though the municipality is required to maintain, safeguard, and maintain insurance on the property, nothing in the committee substitute shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

These floor amendments correct a reference in that section of the

bill creating an exception from a determination of abandonment for those properties upon which an entity other than the municipality has purchased or taken assignment of a tax sale certificate on an unoccupied property. In section 6 of the bill, the period within which the owner of a tax sale certificate shall take action to initiate foreclosure proceedings is one year, whereas the comparable period in section 29 of the bill is six months. These amendments correct the reference in section 6 by making the period six months, in order that it conforms to the comparable language of section 29.