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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH 2/29/08

P.L. 2006, CHAPTER 24, *approved June 22, 2006*
Assembly, No. 803

1 **AN ACT** concerning the discontinuance of electric and gas utility
2 service and removal of equipment from abandoned properties,
3 and amending and supplementing P.L.2003, c.210 (C.55:19-78 et
4 al.).

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

- 8
9 1. (New section) The Legislature finds and declares that:
10 a. Abandoned properties raise significant concerns for
11 communities where they are located, including fostering criminal
12 activity, posing possible public health problems and generally
13 posing a risk to the quality of life for residents and businesses in the
14 area.
15 b. Under current law and tariffs approved under Board of Public
16 Utilities regulations, customers of electric and natural gas utilities
17 are required to provide reasonable access at all reasonable times to
18 such utilities for the purpose of inspection of the customers'
19 premises incident to the rendering of service, reading meters or the
20 repairing of utility facilities used in connection with supplying
21 service or for the removal of utility property.
22 c. Public utilities are bound by law to provide safe, adequate and
23 proper service and must be able to periodically inspect the
24 customers' premises incident to rendering service, read meters,
25 repair utility facilities or remove utility property.
26 d. As a result of certain properties being abandoned or vacant,
27 electric and natural gas utilities are denied the reasonable access to
28 their facilities provided for by law and this impacts the ability to
29 provide safe, adequate and proper service.
30 e. The Legislature therefore determines that in the interest of the
31 public safety of our communities, any electric and natural gas utility
32 should be granted access to abandoned or vacant properties in order
33 to inspect, repair and remove its facilities or property.

34
35 2. Section 3 of P.L.2003, c.210 (C.55:19-80) is amended to read
36 as follows:

37 3. As used in sections 1 through 25 of P.L.2003, c.210 (C.55:19-
38 78 through C.55:19-102) and section 3 of P.L. , c. (C.)(pending
39 before the Legislature as this bill):

40 "Department" means the New Jersey Department of Community
41 Affairs.

42 "Lienholder" or "mortgage holder" means any person or entity

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 holding a note, mortgage or other interest secured by the building or
2 any part thereof.

3 "Municipality" means any city, borough, town, township or
4 village situated within the boundaries of this State and shall include
5 a qualified rehabilitation entity that may be designated by the
6 municipality pursuant to section 13 of P.L.2003, c.210 (C.55:19-90)
7 to act as its agent to exercise any of the municipality's rights
8 pursuant thereto.

9 "Owner" means the holder or holders of title to an abandoned
10 property.

11 "Property" means any building or structure and the land
12 appurtenant thereto.

13 "Public officer" means the person designated by the municipality
14 pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5) or any
15 officer of the municipality qualified to carry out the responsibilities
16 set fourth in P.L.2003, c.210 (C.55:19-78 et al.) and designated by
17 resolution of the governing body of the municipality, except that in
18 municipalities organized under the "mayor-council plan" of the
19 Optional Municipal Charter Law, P.L.1950, c.210 (C.40:69A-1 et
20 seq.), the public officer shall be designated by the mayor.

21 "Qualified rehabilitation entity" means an entity organized or
22 authorized to do business under the New Jersey statutes which shall
23 have as one of its purposes the construction or rehabilitation of
24 residential or non-residential buildings, the provision of affordable
25 housing, the restoration of abandoned property, the revitalization
26 and improvement of urban neighborhoods, or similar purpose, and
27 which shall be well qualified by virtue of its staff, professional
28 consultants, financial resources, and prior activities set forth in
29 P.L.2003, c.210 (C.55:19-78 et al.) to carry out the rehabilitation of
30 vacant buildings in urban areas.

31 "Utility" means any electric or natural gas public utility that is
32 regulated under the jurisdiction of the Board of Public Utilities.

33 (cf: P.L.2005, c.118, s.12)

34

35 3. (New section) A utility may take all necessary steps to enter
36 the premises of, discontinue utility service to, and remove utility
37 equipment from, any property listed on an abandoned property list
38 established pursuant to section 36 of P.L.1996, c.62 (C.55:19-55) or
39 any property that is determined by a public officer to meet the
40 definition of abandoned property as set forth in sections 4 through 6
41 of P.L.2003, c.210 (C.55:19-81 through C.55:19-83), provided that
42 the utility is accompanied by a law enforcement officer from the
43 municipality within which the property is located.

44

45 4. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read
46 as follows:

47 36. a. A qualified municipality that has designated or appointed
48 a public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-

1 2.5), may adopt an ordinance directing the public officer to identify
2 abandoned property for the purpose of establishing an abandoned
3 property list throughout the municipality, or within those parts of
4 the municipality as the governing body may designate. Each item
5 of abandoned property so identified shall include the tax block and
6 lot number, the name of the owner of record, if known, and the
7 street address of the lot.

8 b. In those municipalities in which abandoned properties have
9 been identified in accordance with subsection a. of this section, the
10 public officer shall establish and maintain a list of abandoned
11 property, to be known as the "abandoned property list." The
12 municipality may add properties to the abandoned property list at
13 any time, and may delete properties at any time when the public
14 officer finds that the property no longer meets the definition of an
15 abandoned property. An interested party may request that a
16 property be included on the abandoned property list following that
17 procedure set forth in section 31 of P.L.2003, c.210 (C.55:19-105).

18 An abandoned property shall not be included on the abandoned
19 property list if rehabilitation is being performed in a timely manner,
20 as evidenced by building permits issued and diligent pursuit of
21 rehabilitation work authorized by those permits. A property on
22 which an entity other than the municipality has purchased or taken
23 assignment from the municipality of a tax sale certificate which has
24 been placed on the abandoned property list may be removed in
25 accordance with the provisions of section 29 of P.L.2003, c.210
26 (C.55:19-103).

27 c. The Department of Community Affairs in conjunction with
28 the Department of Environmental Protection shall prepare an
29 information bulletin for distribution to every municipality
30 describing the authority of a municipality under existing statutes
31 and regulations to repair, demolish or otherwise deal with
32 abandoned property.

33 d. (1) The public officer, shall establish the abandoned property
34 list or any additions thereto by publication in the official newspaper
35 of the municipality, which publication shall constitute public notice
36 and, within 10 days after publication, shall send a notice, by
37 certified mail, return receipt requested, and by regular mail, to the
38 owner of record of every property included on the list. The
39 published and mailed notices shall identify property determined to
40 be abandoned setting forth the owner of record, if known, the tax lot
41 and block number and street address. The public officer, in
42 consultation with the tax collector, shall also send out a notice by
43 regular mail to any mortgagee, servicing organization, or property
44 tax processing organization that receives a duplicate copy of the tax
45 bill pursuant to subsection d. of R.S.54:4-64. When the owner of
46 record is not known for a particular property and cannot be
47 ascertained by the exercise of reasonable diligence by the tax
48 collector, notice shall not be mailed but instead shall be posted on

1 the property in the manner as provided in section 5 of P.L.1942,
2 c.112 (C.40:48-2.7). The mailed notice shall indicate the factual
3 basis for the public officer's finding that the property is abandoned
4 property as that term is defined in section 35 of P.L.1996, c.62
5 (C.55:19-54) and the rules and regulations promulgated thereunder,
6 specifying the information relied upon in making such finding. In
7 all cases a copy of the mailed or posted notice shall also be filed by
8 the public officer in the office of the county clerk or register of
9 deeds and mortgages, as the case may be, of the county wherein the
10 property is situate. This filing shall have the same force and effect
11 as a notice of lis pendens under N.J.S.2A:15-6. The notice shall be
12 indexed by the name of the property owner as defendant and the
13 name of the municipality as plaintiff, as though an action had been
14 commenced by the municipality against the owner.

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

20 (3) The public officer, within ten days of the establishment of the
21 abandoned property list, or any additions thereto, shall send by
22 regular mail, facsimile or electronic mail, a copy of the abandoned
23 property list to the electric and gas utilities serving the
24 municipality.

25 e. An owner or lienholder may challenge the inclusion of his
26 property on the abandoned property list determined pursuant to
27 subsection b. of this section by appealing that determination to the
28 public officer within 30 days of the owner's receipt of the certified
29 notice or 40 days from the date upon which the notice was sent. An
30 owner whose identity was not known to the public officer shall have
31 40 days from the date upon which notice was published or posted,
32 whichever is later, to challenge the inclusion of a property on the
33 abandoned property list. For good cause shown, the public officer
34 shall accept a late filing of an appeal. Within 30 days of receipt of
35 a request for an appeal of the findings contained in the notice
36 pursuant to subsection d. of this section, the public officer shall
37 schedule a hearing for redetermination of the matter. Any property
38 included on the list shall be presumed to be abandoned property
39 unless the owner, through the submission of an affidavit or
40 certification by the property owner averring that the property is not
41 abandoned and stating the reasons for such averment, can
42 demonstrate that the property was erroneously included on the list.
43 The affidavit or certification shall be accompanied by supporting
44 documentation, such as but not limited to photographs, repair
45 invoices, bills and construction contracts. The sole ground for
46 appeal shall be that the property in question is not abandoned
47 property as that term is defined in section 35 of P.L.1996, c.62
48 (C.55:19-54). The public officer shall decide any timely filed

1 appeal within 10 days of the hearing on the appeal and shall
2 promptly, by certified mail, return receipt requested, and by regular
3 mail, notify the property owner of the decision and the reasons
4 therefor.

5 f. The property owner may challenge an adverse determination
6 of an appeal with the public officer pursuant to subsection e. of this
7 section, by instituting, in accordance with the New Jersey Court
8 Rules, a summary proceeding in the Superior Court, Law Division,
9 sitting in the county in which the property is located, which action
10 shall be tried de novo. Such action shall be instituted within 20
11 days of the date of the notice of decision mailed by the public
12 officer pursuant to subsection e. of this section. The sole ground
13 for appeal shall be that the property in question is not abandoned
14 property as that term is defined in section 35 of P.L.1996, c.62
15 (C.55:19-54). The failure to institute an action of appeal on a
16 timely basis shall constitute a jurisdictional bar to challenging the
17 adverse determination, except that, for good cause shown, the court
18 may extend the deadline for instituting the action.

19 g. The public officer shall promptly remove any property from
20 the abandoned property list that has been determined not to be
21 abandoned on appeal.

22 h. The abandoned property list shall become effective, and the
23 municipality shall have the right to pursue any legal remedy with
24 respect to properties on the abandoned property list at such time as
25 any one property has been placed on the list in accordance with the
26 provisions of this section, upon the expiration of the period for
27 appeal with respect to that property or upon the denial of an appeal
28 brought by the property owner.

29 (cf: P.L.2005, c.118, s.1)

30

31 5. This act shall take effect immediately.

32

33

34

35

36 Authorizes access to abandoned properties by electric and gas
37 public utilities to disconnect utility service.

ASSEMBLY, No. 803

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblywoman JOAN M. VOSS

District 38 (Bergen)

SYNOPSIS

Authorizes access to abandoned properties by electric and gas public utilities to disconnect utility service.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the discontinuance of electric and gas utility
2 service and removal of equipment from abandoned properties,
3 and amending and supplementing P.L.2003, c.210 (C.55:19-78 et
4 al.).

5

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

8

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

10 a. Abandoned properties raise significant concerns for
11 communities where they are located, including fostering criminal
12 activity, posing possible public health problems and generally
13 posing a risk to the quality of life for residents and businesses in the
14 area.

15 b. Under current law and tariffs approved under Board of Public
16 Utilities regulations, customers of electric and natural gas utilities
17 are required to provide reasonable access at all reasonable times to
18 such utilities for the purpose of inspection of the customers'
19 premises incident to the rendering of service, reading meters or the
20 repairing of utility facilities used in connection with supplying
21 service or for the removal of utility property.

22 c. Public utilities are bound by law to provide safe, adequate and
23 proper service and must be able to periodically inspect the
24 customers' premises incident to rendering service, read meters,
25 repair utility facilities or remove utility property.

26 d. As a result of certain properties being abandoned or vacant,
27 electric and natural gas utilities are denied the reasonable access to
28 their facilities provided for by law and this impacts the ability to
29 provide safe, adequate and proper service.

30 e. The Legislature therefore determines that in the interest of the
31 public safety of our communities, any electric and natural gas utility
32 should be granted access to abandoned or vacant properties in order
33 to inspect, repair and remove its facilities or property.

34

35 2. Section 3 of P.L.2003, c.210 (C.55:19-80) is amended to read
36 as follows:

37 3. As used in sections 1 through 25 of P.L.2003, c.210 (C.55:19-
38 78 through C.55:19-102) and section 3 of P.L. , c. (C.)(now
39 pending before the Legislature as this bill):

40 "Department" means the New Jersey Department of Community
41 Affairs.

42 "Lienholder" or "mortgage holder" means any person or entity
43 holding a note, mortgage or other interest secured by the building or
44 any part thereof.

45 "Municipality" means any city, borough, town, township or

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

Matter underlined thus is new matter.

1 village situated within the boundaries of this State and shall include
2 a qualified rehabilitation entity that may be designated by the
3 municipality pursuant to section 13 of P.L.2003, c.210 (C.55:19-90)
4 to act as its agent to exercise any of the municipality's rights
5 pursuant thereto.

6 "Owner" means the holder or holders of title to an abandoned
7 property.

8 "Property" means any building or structure and the land
9 appurtenant thereto.

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

12 "Qualified rehabilitation entity" means an entity organized or
13 authorized to do business under the New Jersey statutes which shall
14 have as one of its purposes the construction or rehabilitation of
15 residential or non-residential buildings, the provision of affordable
16 housing, the restoration of abandoned property, the revitalization
17 and improvement of urban neighborhoods, or similar purpose, and
18 which shall be well qualified by virtue of its staff, professional
19 consultants, financial resources, and prior activities set forth in
20 P.L.2003, c.210 (C.55:19-78 et al.) to carry out the rehabilitation of
21 vacant buildings in urban areas.

22 "Utility" means any electric or natural gas public utility that is
23 regulated under the jurisdiction of the Board of Public Utilities.
24 (cf: P.L.2003, c.210, s.3)

25
26 3. (New section) A utility may take all necessary steps to enter
27 the premises of, discontinue utility service to, and remove utility
28 equipment from, any property listed on an abandoned property list
29 established pursuant to section 36 of P.L.1996, c.62 (C.55:19-56) or
30 any property that is determined by a public officer to meet the
31 definition of abandoned property as set forth in sections 4 through 6
32 of P.L.2003, c.210 (C.55:19-81 through C.55:19-83), provided that
33 the utility is accompanied by a law enforcement officer from the
34 municipality within which the property is located.

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

38 36. a. A qualified municipality that has designated or appointed
39 a public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-
40 2.5), may adopt an ordinance directing the public officer to identify
41 abandoned property for the purpose of establishing an abandoned
42 property list throughout the municipality, or within those parts of
43 the municipality as the governing body may designate by resolution.
44 Each item of abandoned property so identified shall include the tax
45 block and lot number, the name of the owner of record, if known,
46 and the street address of the lot.

47 b. In those municipalities in which abandoned properties have
48 been identified in accordance with subsection a. of this section, the

1 public officer shall establish and maintain a list of abandoned
2 property, to be known as the "abandoned property list." The
3 municipality may add properties to the abandoned property list at
4 any time, and may delete properties at any time when the public
5 officer finds that the property no longer meets the definition of an
6 abandoned property. An interested party may request that a
7 property be included on the abandoned property list following that
8 procedure set forth in section 31 of P.L.2003, c.210 (C.55:19-105).

9 An abandoned property shall not be included on the abandoned
10 property list if rehabilitation is being performed in a timely manner,
11 as evidenced by building permits issued and diligent pursuit of
12 rehabilitation work authorized by those permits. A property on
13 which an entity other than the municipality has purchased or taken
14 assignment from the municipality of a tax sale certificate which has
15 been placed on the abandoned property list may be removed in
16 accordance with the provisions of section 29 of P.L.2003, c.210
17 (C.55:19-103).

18 c. The Department of Community Affairs in conjunction with
19 the Department of Environmental Protection shall prepare an
20 information bulletin for distribution to every municipality
21 describing the authority of a municipality under existing statutes
22 and regulations to repair, demolish or otherwise deal with
23 abandoned property.

24 d. (1) The public officer, within 10 days of the establishment of
25 the abandoned property list, or any additions thereto, shall send a
26 notice, by certified mail, return receipt requested, and by regular
27 mail, to the owner of record of every property included on the list
28 and shall cause the list to be published in the official newspaper of
29 the municipality, which publication shall constitute public notice.
30 The published and mailed notices shall identify property determined
31 to be abandoned setting forth the owner of record, if known, the tax
32 lot and block number and street address. The public officer, in
33 consultation with the tax collector, shall also send out a notice by
34 regular mail to any mortgagee, servicing organization, or property
35 tax processing organization that receives a duplicate copy of the tax
36 bill pursuant to subsection d. of R.S.54:4-64. When the owner of
37 record is not known for a particular property and cannot be
38 ascertained by the exercise of reasonable diligence by the tax
39 collector, notice shall not be mailed but instead shall be posted on
40 the property in the manner as provided in section 5 of P.L.1942,
41 c.112 (C.40:48-2.7). The mailed notice shall indicate the factual
42 basis for the public officer's finding that the property is abandoned
43 property as that term is defined in section 35 of P.L.1996, c.62
44 (C.55:19-54) and the rules and regulations promulgated thereunder,
45 specifying the information relied upon in making such finding. In
46 all cases a copy of the mailed or posted notice shall also be filed by
47 the public officer in the office of the county clerk or register of
48 deeds and mortgages, as the case may be, of the county wherein the

1 property is situate. This filing shall have the same force and effect
2 as a notice of lis pendens under N.J.S.2A:15-6. The notice shall be
3 indexed by the name of the property owner as defendant and the
4 name of the municipality as plaintiff, as though an action had been
5 commenced by the municipality against the owner.

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

11 (3) The public officer, within ten days of the establishment of the
12 abandoned property list, or any additions thereto, shall send by
13 regular mail, facsimile or electronic mail, a copy of the abandoned
14 property list to the electric and gas utilities serving the
15 municipality.

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

44 f. The property owner may challenge an adverse determination
45 of an appeal with the public officer pursuant to subsection e. of this
46 section, by instituting, in accordance with the New Jersey Court
47 Rules, a summary proceeding in the Superior Court, Law Division,
48 sitting in the county in which the property is located, which action

1 shall be tried de novo. Such action shall be instituted within 20
2 days of the date of the notice of decision mailed by the public
3 officer pursuant to subsection e. of this section. The sole ground
4 for appeal shall be that the property in question is not abandoned
5 property as that term is defined in section 35 of P.L.1996, c.62
6 (C.55:19-54). The failure to institute an action of appeal on a
7 timely basis shall constitute a jurisdictional bar to challenging the
8 adverse determination, except that, for good cause shown, the court
9 may extend the deadline for instituting the action.

10 g. The public officer shall promptly remove any property from
11 the abandoned property list that has been determined not to be
12 abandoned on appeal.

13 h. The abandoned property list shall become effective, and the
14 municipality shall have the right to pursue any legal remedy with
15 respect to properties on the abandoned property list at such time as
16 any one property has been placed on the list in accordance with the
17 provisions of this section, upon the expiration of the period for
18 appeal with respect to that property or upon the denial of an appeal
19 brought by the property owner.

20 (cf: P.L.2003, c.210, s.28)

21

22 5. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This bill allows an electric or natural gas utility, when
28 accompanied by a local law enforcement officer, to enter an
29 abandoned property to discontinue electric or natural gas service
30 and remove its facilities. Many abandoned and vacant properties
31 throughout the State have electric and gas public utility facilities,
32 such as metering equipment inside the premises. Since the owners
33 have abandoned the properties, utilities cannot gain the access
34 required by law to inspect the premises incident to rendering
35 service, read meters, repair its facilities or remove its property.
36 This bill allows utilities to enter properties officially declared
37 abandoned by a public officer designated by a qualified
38 municipality to establish and maintain the abandoned property list.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 803

STATE OF NEW JERSEY

DATED: JANUARY 30, 2006

As reported, this bill allows an electric or natural gas utility, when accompanied by a local law enforcement officer, to enter an abandoned property to discontinue electric or natural gas service and remove its facilities. Many abandoned and vacant properties throughout the State have electric and gas public utility facilities, such as metering equipment inside the premises. Since the owners have abandoned the properties, utilities cannot gain the access required by law to inspect the premises incident to rendering service, read meters, repair its facilities or remove its property. This bill allows utilities to enter properties officially declared abandoned by a public officer designated by a qualified municipality to establish and maintain the abandoned property list.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 803

STATE OF NEW JERSEY

DATED: MAY 8, 2006

The Senate Economic Growth Committee reports favorably Assembly Bill, No. 803.

This bill allows an electric or natural gas utility, when accompanied by a local law enforcement officer, to enter an abandoned property to discontinue electric or natural gas service and remove its facilities. Many abandoned and vacant properties throughout the State have electric and gas public utility facilities, such as metering equipment, inside the premises. Since the owners have abandoned the properties, utilities cannot gain the access required by law to inspect the premises incident to rendering service, read meters, repair its facilities or remove its property. This bill allows utilities to enter properties officially declared abandoned by a public officer designated by a qualified municipality to establish and maintain the abandoned property list.

As reported by the committee, Assembly Bill, No. 803 is identical to Senate Bill, No. 1402 which was also reported by the committee on this date.

SENATE, No. 1402

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

SYNOPSIS

Authorizes access to abandoned properties by electric and gas public utilities to disconnect utility service.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/9/2006)

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16 Utilities regulations, customers of electric and natural gas utilities
17 are required to provide reasonable access at all reasonable times to
18 such utilities for the purpose of inspection of the customers'
19 premises incident to the rendering of service, reading meters or the
20 repairing of utility facilities used in connection with supplying
21 service or for the removal of utility property.

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43 holding a note, mortgage or other interest secured by the building or
44 any part thereof.

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 "Municipality" means any city, borough, town, township or
2 village situated within the boundaries of this State and shall include
3 a qualified rehabilitation entity that may be designated by the
4 municipality pursuant to section 13 of P.L.2003, c.210 (C.55:19-90)
5 to act as its agent to exercise any of the municipality's rights
6 pursuant thereto.

7 "Owner" means the holder or holders of title to an abandoned
8 property.

9 "Property" means any building or structure and the land
10 appurtenant thereto.

11 "Public officer" means the person designated by the municipality
12 pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5) or any
13 officer of the municipality qualified to carry out the responsibilities
14 set fourth in P.L.2003, c.210 (C.55:19-78 et al.) and designated by
15 resolution of the governing body of the municipality, except that in
16 municipalities organized under the "mayor-council plan" of the
17 Optional Municipal Charter Law, P.L.1950, c.210 (C.40:69A-1 et
18 seq.), the public officer shall be designated by the mayor.

19 "Qualified rehabilitation entity" means an entity organized or
20 authorized to do business under the New Jersey statutes which shall
21 have as one of its purposes the construction or rehabilitation of
22 residential or non-residential buildings, the provision of affordable
23 housing, the restoration of abandoned property, the revitalization
24 and improvement of urban neighborhoods, or similar purpose, and
25 which shall be well qualified by virtue of its staff, professional
26 consultants, financial resources, and prior activities set forth in
27 P.L.2003, c.210 (C.55:19-78 et al.) to carry out the rehabilitation of
28 vacant buildings in urban areas.

29 "Utility" means any electric or natural gas public utility that is
30 regulated under the jurisdiction of the Board of Public Utilities.
31 (cf: P.L.2005, c.118, s.12)

32

33 3. (New section) A utility may take all necessary steps to enter
34 the premises of, discontinue utility service to, and remove utility
35 equipment from, any property listed on an abandoned property list
36 established pursuant to section 36 of P.L.1996, c.62 (C.55:19-55) or
37 any property that is determined by a public officer to meet the
38 definition of abandoned property as set forth in sections 4 through 6
39 of P.L.2003, c.210 (C.55:19-81 through C.55:19-83), provided that
40 the utility is accompanied by a law enforcement officer from the
41 municipality within which the property is located.

42

43 4. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read
44 as follows:

45 36. a. A qualified municipality that has designated or appointed
46 a public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-
47 2.5), may adopt an ordinance directing the public officer to identify
48 abandoned property for the purpose of establishing an abandoned

1 property list throughout the municipality, or within those parts of
2 the municipality as the governing body may designate. Each item
3 of abandoned property so identified shall include the tax block and
4 lot number, the name of the owner of record, if known, and the
5 street address of the lot.

6 b. In those municipalities in which abandoned properties have
7 been identified in accordance with subsection a. of this section, the
8 public officer shall establish and maintain a list of abandoned
9 property, to be known as the "abandoned property list." The
10 municipality may add properties to the abandoned property list at
11 any time, and may delete properties at any time when the public
12 officer finds that the property no longer meets the definition of an
13 abandoned property. An interested party may request that a
14 property be included on the abandoned property list following that
15 procedure set forth in section 31 of P.L.2003, c.210 (C.55:19-105).

16 An abandoned property shall not be included on the abandoned
17 property list if rehabilitation is being performed in a timely manner,
18 as evidenced by building permits issued and diligent pursuit of
19 rehabilitation work authorized by those permits. A property on
20 which an entity other than the municipality has purchased or taken
21 assignment from the municipality of a tax sale certificate which has
22 been placed on the abandoned property list may be removed in
23 accordance with the provisions of section 29 of P.L.2003, c.210
24 (C.55:19-103).

25 c. The Department of Community Affairs in conjunction with
26 the Department of Environmental Protection shall prepare an
27 information bulletin for distribution to every municipality
28 describing the authority of a municipality under existing statutes
29 and regulations to repair, demolish or otherwise deal with
30 abandoned property.

31 d. (1) The public officer, shall establish the abandoned property
32 list or any additions thereto by publication in the official newspaper
33 of the municipality, which publication shall constitute public notice
34 and, within 10 days after publication, shall send a notice, by
35 certified mail, return receipt requested, and by regular mail, to the
36 owner of record of every property included on the list. The
37 published and mailed notices shall identify property determined to
38 be abandoned setting forth the owner of record, if known, the tax lot
39 and block number and street address. The public officer, in
40 consultation with the tax collector, shall also send out a notice by
41 regular mail to any mortgagee, servicing organization, or property
42 tax processing organization that receives a duplicate copy of the tax
43 bill pursuant to subsection d. of R.S.54:4-64. When the owner of
44 record is not known for a particular property and cannot be
45 ascertained by the exercise of reasonable diligence by the tax
46 collector, notice shall not be mailed but instead shall be posted on
47 the property in the manner as provided in section 5 of P.L.1942,
48 c.112 (C.40:48-2.7). The mailed notice shall indicate the factual

1 basis for the public officer's finding that the property is abandoned
2 property as that term is defined in section 35 of P.L.1996, c.62
3 (C.55:19-54) and the rules and regulations promulgated thereunder,
4 specifying the information relied upon in making such finding. In
5 all cases a copy of the mailed or posted notice shall also be filed by
6 the public officer in the office of the county clerk or register of
7 deeds and mortgages, as the case may be, of the county wherein the
8 property is situate. This filing shall have the same force and effect
9 as a notice of lis pendens under N.J.S.2A:15-6. The notice shall be
10 indexed by the name of the property owner as defendant and the
11 name of the municipality as plaintiff, as though an action had been
12 commenced by the municipality against the owner.

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

18 (3) The public officer, within ten days of the establishment of the
19 abandoned property list, or any additions thereto, shall send by
20 regular mail, facsimile or electronic mail, a copy of the abandoned
21 property list to the electric and gas utilities serving the
22 municipality.

23 e. An owner or lienholder may challenge the inclusion of his
24 property on the abandoned property list determined pursuant to
25 subsection b. of this section by appealing that determination to the
26 public officer within 30 days of the owner's receipt of the certified
27 notice or 40 days from the date upon which the notice was sent. An
28 owner whose identity was not known to the public officer shall have
29 40 days from the date upon which notice was published or posted,
30 whichever is later, to challenge the inclusion of a property on the
31 abandoned property list. For good cause shown, the public officer
32 shall accept a late filing of an appeal. Within 30 days of receipt of
33 a request for an appeal of the findings contained in the notice
34 pursuant to subsection d. of this section, the public officer shall
35 schedule a hearing for redetermination of the matter. Any property
36 included on the list shall be presumed to be abandoned property
37 unless the owner, through the submission of an affidavit or
38 certification by the property owner averring that the property is not
39 abandoned and stating the reasons for such averment, can
40 demonstrate that the property was erroneously included on the list.
41 The affidavit or certification shall be accompanied by supporting
42 documentation, such as but not limited to photographs, repair
43 invoices, bills and construction contracts. The sole ground for
44 appeal shall be that the property in question is not abandoned
45 property as that term is defined in section 35 of P.L.1996, c.62
46 (C.55:19-54). The public officer shall decide any timely filed
47 appeal within 10 days of the hearing on the appeal and shall
48 promptly, by certified mail, return receipt requested, and by regular

1 mail, notify the property owner of the decision and the reasons
2 therefor.

3 f. The property owner may challenge an adverse determination
4 of an appeal with the public officer pursuant to subsection e. of this
5 section, by instituting, in accordance with the New Jersey Court
6 Rules, a summary proceeding in the Superior Court, Law Division,
7 sitting in the county in which the property is located, which action
8 shall be tried de novo. Such action shall be instituted within 20
9 days of the date of the notice of decision mailed by the public
10 officer pursuant to subsection e. of this section. The sole ground
11 for appeal shall be that the property in question is not abandoned
12 property as that term is defined in section 35 of P.L.1996, c.62
13 (C.55:19-54). The failure to institute an action of appeal on a
14 timely basis shall constitute a jurisdictional bar to challenging the
15 adverse determination, except that, for good cause shown, the court
16 may extend the deadline for instituting the action.

17 g. The public officer shall promptly remove any property from
18 the abandoned property list that has been determined not to be
19 abandoned on appeal.

20 h. The abandoned property list shall become effective, and the
21 municipality shall have the right to pursue any legal remedy with
22 respect to properties on the abandoned property list at such time as
23 any one property has been placed on the list in accordance with the
24 provisions of this section, upon the expiration of the period for
25 appeal with respect to that property or upon the denial of an appeal
26 brought by the property owner.

27 (cf: P.L.2005, c.118, s.1)

28

29 5. This act shall take effect immediately.

30

31

32

STATEMENT

33

34 This bill allows an electric or natural gas utility, when
35 accompanied by a local law enforcement officer, to enter an
36 abandoned property to discontinue electric or natural gas service
37 and remove its facilities. Many abandoned and vacant properties
38 throughout the State have electric and gas public utility facilities,
39 such as metering equipment inside the premises. Since the owners
40 have abandoned the properties, utilities cannot gain the access
41 required by law to inspect the premises incident to rendering
42 service, read meters, repair its facilities or remove its property.
43 This bill allows utilities to enter properties officially declared
44 abandoned by a public officer designated by a qualified
45 municipality to establish and maintain the abandoned property list.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1402

STATE OF NEW JERSEY

DATED: MAY 8, 2006

The Senate Economic Growth Committee reports favorably Senate Bill, No. 1402.

This bill allows an electric or natural gas utility, when accompanied by a local law enforcement officer, to enter an abandoned property to discontinue electric or natural gas service and remove its facilities. Many abandoned and vacant properties throughout the State have electric and gas public utility facilities, such as metering equipment, inside the premises. Since the owners have abandoned the properties, utilities cannot gain the access required by law to inspect the premises incident to rendering service, read meters, repair its facilities or remove its property. This bill allows utilities to enter properties officially declared abandoned by a public officer designated by a qualified municipality to establish and maintain the abandoned property list.

As reported by the committee, Senate Bill, No. 1402 is identical to Assembly Bill, No. 803 which was also reported by the committee on this date.