

P.L. 2006, CHAPTER 31, *approved July 7, 2006*
Senate Committee Substitute for
Senate, No. 650

1 **AN ACT** concerning graffiti, supplementing chapter 48 of Title 40
2 of the Revised Statutes and amending P.L.2002, c.128.

3

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

6

7 1. (New section) This act shall be known and may be cited as
8 the "Municipal Beautification Act."

9

10 2. (New section) a. The governing body of every municipality
11 may make, amend, repeal, and enforce ordinances to prohibit acts of
12 graffiti on buildings, structures and other exposed surfaces located
13 within the municipality and to require the owner of a building,
14 structure or other exposed surface located in the municipality to
15 remove graffiti.

16 b. For the purposes of this section, "graffiti" means any drawing,
17 painting or making of any mark or inscription on public or private
18 real or personal property without the prior written permission of the
19 owner of the property.

20 c. (1) An ordinance requiring an owner to remove graffiti shall
21 provide that the owner of record of the property shall be entitled to
22 written notice of the order to remove graffiti and that the notice
23 shall be delivered to the owner by certified and regular mail. The
24 order shall afford the owner the opportunity to remove the graffiti
25 within 90 days from the date that the notice is sent, however, the
26 Department of Transportation shall be afforded 120 days from the
27 date a notice is sent to remove graffiti from property owned by the
28 department.

29 (2) The notice to remove graffiti shall contain a form to be
30 utilized by a property owner to inform the municipality that the
31 graffiti has been removed. The form shall contain a provision
32 stating that by affixing a signature to the form, indicating that
33 graffiti has been removed, the owner is certifying that the facts set
34 forth therein are true and that the certification shall be considered as
35 if made under oath and subject to the same penalties as provided by
36 law for perjury.

37 (3) An owner who has been ordered to remove graffiti shall
38 respond to the municipality by personal delivery or by certified
39 mail:

40 (a) of any objection to the order, within 30 days of the date of
41 the order, or

42 (b) of notice that the graffiti has been removed, within 90 days

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 of the date of the order, or in the case of the Department of
2 Transportation, within 120 days of the date of the order.

3 d. An owner who objects to an order to remove graffiti, pursuant
4 to paragraph (3) of subsection c. of this section, may institute an
5 action challenging the order before a court of competent jurisdiction
6 within 60 days of the date of the order.

7 e. If a property owner does not undertake the removal of graffiti
8 within 90 days of the date of the order, or in the case of the
9 Department of Transportation, within 120 days of the date of the
10 order, unless an action challenging the order to remove graffiti is
11 still pending pursuant to subsection d. of this section, the
12 municipality may remove the graffiti from that property and present
13 the property owner with a detailed itemization of the costs incurred
14 by the municipality, by certified and regular mail, for
15 reimbursement from the property owner.

16 f. Whenever a municipality undertakes the removal of graffiti
17 from any building, structure or other exposed surface, the governing
18 body of the municipality, in addition to assessing the cost of
19 removal as a municipal lien against the premises, may enforce the
20 payment of such assessment, together with interest, as a debt of the
21 owner of the property and may authorize the institution of an action
22 at law for the collection thereof. The Superior Court shall have
23 jurisdiction of any such action.

24

25 3. Section 5 of P.L.2002, c.128 (C13:1E-217) is amended to
26 read as follows:

27 5. The Clean Communities Program Fund is established as a
28 nonlapsing, revolving fund in the Department of the Treasury. The
29 Clean Communities Program Fund shall be administered by the
30 Department of Environmental Protection and credited, in addition to
31 any appropriations made thereto, with all user fees imposed
32 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties
33 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),
34 and any sums received as voluntary contributions from private
35 sources. Interest received on moneys in the Clean Communities
36 Program Fund shall be credited to the fund. Unless otherwise
37 expressly provided by the specific appropriation thereof by the
38 Legislature, which shall take the form of a discrete legislative
39 appropriations act and shall not be included within the annual
40 appropriations act, all available moneys in the Clean Communities
41 Program Fund shall be appropriated annually solely for the
42 following purposes and no others:

43 a. 10% of the estimated annual balance of the Clean
44 Communities Program Fund shall be used for a State program of
45 litter pickup and removal and of enforcement of litter-related laws
46 and ordinances in State owned places and areas that are accessible
47 to the public. Moneys in the fund may also be used by the State to
48 abate graffiti;

1 b. 50% of the estimated annual balance of the Clean
2 Communities Program Fund shall be distributed as State aid to
3 eligible municipalities with total housing units of 200 or more for
4 programs of litter pickup and removal, including establishing an
5 "Adopt-A-Highway" program, of public education and information
6 relating to litter abatement and of enforcement of litter-related laws
7 and ordinances. The amount of State aid due each municipality
8 shall be solely calculated based on the proportion which the housing
9 units of a qualifying municipality bear to the total housing units in
10 the State. Total housing units shall be determined using the most
11 recent federal decennial population estimates for New Jersey and its
12 municipalities, filed in the office of the Secretary of State. Moneys
13 in the fund may also be used by an eligible municipality to abate
14 graffiti;

15 c. 30% of the estimated annual balance of the Clean
16 Communities Program Fund shall be distributed as State aid to
17 eligible municipalities with total housing units of 200 or more for
18 programs of litter pickup and removal, including establishing an
19 "Adopt-A-Highway" program, of public education and information
20 relating to litter abatement and of enforcement of litter-related laws
21 and ordinances. The amount of State aid due each municipality
22 shall be solely calculated based on the proportion which the
23 municipal road mileage of a qualifying municipality bears to the
24 total municipal road mileage within the State. For the purposes of
25 this subsection, "municipal road mileage" means that road mileage
26 under the jurisdiction of municipalities, as determined by the
27 Department of Transportation. Moneys in the fund may also be
28 used by an eligible municipality to abate graffiti;

29 d. 10% of the estimated annual balance of the Clean
30 Communities Program Fund shall be distributed as State aid to
31 eligible counties for programs of litter pickup and removal,
32 including establishing an "Adopt-A-Highway" program, of public
33 education and information relating to litter abatement and of
34 enforcement of litter-related laws and ordinances. The amount of
35 State aid due each county shall be solely calculated based on the
36 proportion which the county road mileage of an eligible county
37 bears to the total county road mileage within the State. For the
38 purposes of this subsection, "county road mileage" means that road
39 mileage under the jurisdiction of counties, as determined by the
40 Department of Transportation. Moneys in the fund may also be
41 used by an eligible county to abate graffiti;

42 e. No eligible municipality shall receive less than \$4,000 in
43 State aid as apportioned pursuant to subsections b. and c. of this
44 section. A municipality or county may use up to 5% of its State aid
45 for administrative expenses;

46 f. Prior to the distribution of funds pursuant to subsections a.
47 through d. of this section:

1 (1) 25% of the estimated annual balance of the Clean
2 Communities Program Fund shall be annually appropriated to the
3 State Recycling Fund established pursuant to section 5 of P.L.1981,
4 c.278 (C.13:1E-96). These moneys shall be used by the Department
5 of Environmental Protection for direct recycling grants to counties
6 and municipalities, up to a maximum appropriation of \$4,000,000
7 per year. The moneys made available to the department from the
8 Clean Communities Program Fund for direct recycling grants shall
9 be annually appropriated to the State Recycling Fund until such
10 time as an alternative funding mechanism for direct recycling grants
11 is enacted into law; and

12 (2) \$300,000 of the estimated annual balance of the Clean
13 Communities Program Fund shall be annually appropriated to the
14 department and made available on July 1 of every year to the
15 organization under contract with the department pursuant to section
16 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public
17 information and education program concerning antilittering
18 activities and other aspects of responsible solid waste handling
19 behavior.

20 The organization under contract with the department pursuant to
21 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the
22 date on which the contract period concludes, submit a report to the
23 Governor and the Legislature concerning its activities during the
24 contract period and any recommendations concerning improving the
25 program. Every eligible municipality and county shall cooperate
26 with the organization under contract with the department pursuant
27 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing
28 information concerning its program of litter pickup and removal.

29 g. As used in this section, "graffiti" means any inscription
30 drawn, painted or otherwise made on a bridge, building, public
31 transportation vehicle, rock, wall, sidewalk, street or other exposed
32 surface on public property.

33 The department may carry forward any unexpended balances in
34 the Clean Communities Program Fund as of June 30 of each year.
35 (cf: P.L.2002, c.128, s.5)

36

37 4. This act shall take effect immediately.

38

39

40

41

42 _____
Authorizes mechanisms to abate graffiti.

SENATE, No. 650

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

SYNOPSIS

Authorizes municipalities to adopt ordinances requiring property owners to clean up graffiti on buildings.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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2

1 AN ACT concerning municipal ordinances and amending R.S.40:48-
2 1 and supplementing chapter 48 of Title 40 of the Revised
3 Statutes.

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

7
8 1. R.S.40:48-1 is amended to read as follows:

9 40:48-1. Ordinances; general purpose. The governing body of
10 every municipality may make, amend, repeal and enforce
11 ordinances to:

12 Finances and property. 1. Manage, regulate and control the
13 finances and property, real and personal, of the municipality;

14 Contracts and contractor's bonds. 2. Prescribe the form and
15 manner of execution and approval of all contracts to be executed by
16 the municipality and of all bonds to be given to it;

17 Officers and employees; duties, terms and salaries. 3. Prescribe
18 and define, except as otherwise provided by law, the duties and
19 terms of office or employment, of all officers and employees; and to
20 provide for the employment and compensation of such officials and
21 employees, in addition to those provided for by statute, as may be
22 deemed necessary for the efficient conduct of the affairs of the
23 municipality;

24 Fees. 4. Fix the fees of any officer or employee of the
25 municipality for any service rendered in connection with his office
26 or position, for which no specific fee or compensation is provided.
27 In the case of salaried officers or employees, such fee shall be paid
28 into the municipal treasury;

29 Salaries instead of fees; disposition of fees. 5. Provide that any
30 officer or employee receiving compensation for his services, in
31 whole or in part by fees, whether paid by the municipality or
32 otherwise, shall be paid a salary to be fixed in the ordinance, and
33 thereafter all fees received by such officer or employee shall be
34 paid into the municipal treasury;

35 Maintain order. 6. Prevent vice, drunkenness and immorality; to
36 preserve the public peace and order; to prevent and quell riots,
37 disturbances and disorderly assemblages; to prohibit the
38 consumption of alcoholic beverages by underage persons on private
39 property pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);

40 Punish beggars; prevention of loitering. 7. Restrain and punish
41 drunkards, vagrants, mendicants and street beggars; to prevent
42 loitering, lounging or sleeping in the streets, parks or public places;

43 Auctions and noises. 8. Regulate the ringing of bells and the
44 crying of goods and other commodities for sale at auction or
45 otherwise, and to prevent disturbing noises;

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Matter underlined thus is new matter.

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1 Swimming; bathing costume; prohibition of public nudity. 9.
2 Regulate or prohibit swimming or bathing in the waters of, in, or
3 bounding the municipality, and to regulate or prohibit persons from
4 appearing upon the public streets, parks and places clad in bathing
5 costumes or robes, or costumes of a similar character; regulate or
6 prohibit persons from appearing in a state of nudity upon all lands
7 within its borders which are under the jurisdiction of the State
8 including, without limitation, all lands owned by, controlled by,
9 managed by or leased by the State;

10 Prohibit annoyance of persons or animals. 10. Regulate or
11 prohibit any practice tending to frighten animals, or to annoy or
12 injure persons in the public streets;

13 Animals; pounds; establishment and regulation. 11. Establish
14 and regulate one or more pounds, and to prohibit or regulate the
15 running at large of horses, cattle, dogs, swine, goats and other
16 animals, and to authorize their impounding and sale for the penalty
17 incurred, and the costs of impounding, keeping and sale; to regulate
18 or prohibit the keeping of cattle, goats or swine in any part of the
19 municipality; to authorize the destruction of dogs running at large
20 therein;

21 Hucksters. 12. Prescribe and regulate the place of vending or
22 exposing for sale articles of merchandise from vehicles;

23 Building regulations; wooden structures. 13. Regulate and
24 control the construction, erection, alteration and repair of buildings
25 and structures of every kind within the municipality; [and] to
26 prohibit, within certain limits, the construction, erection or
27 alteration of buildings or structures of wood or other combustible
28 material; and to prohibit acts of graffiti on any building located in
29 the municipality and require the removal of graffiti from a building
30 located in the municipality by the building's owner. For the
31 purposes of this section, "graffiti" means any drawing, painting or
32 making of any mark or inscription on public or private real or
33 personal property without the permission of the owner;

34 Inflammable materials; inspect docks and buildings. 14.
35 Regulate the use, storage, sale and disposal of inflammable or
36 combustible materials, and to provide for the protection of life and
37 property from fire, explosions and other dangers; to provide for
38 inspections of buildings, docks, wharves, warehouses and other
39 places, and of goods and materials contained therein, to secure the
40 proper enforcement of such ordinance;

41 Dangerous structures; removal or destruction; procedure.
42 15. Provide for the removal or destruction of any building, wall or
43 structure which is or may become dangerous to life or health, or
44 might tend to extend a conflagration; and to assess the cost thereof
45 as a municipal lien against the premises;

46 Chimneys and boilers. 16. Regulate the construction and setting
47 up of chimneys, furnaces, stoves, boilers, ovens and other

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- 1 contrivances in which fire is used;
- 2 Explosives. 17. Regulate, in conformity with the statutes of this
3 State, the manufacture, storage, sale, keeping or conveying of
4 gunpowder, nitroglycerine, dynamite and other explosives;
- 5 Firearms and fireworks. 18. Regulate and prohibit the sale and
6 use of guns, pistols, firearms, and fireworks of all descriptions;
- 7 Soft coal. 19. Regulate the use of soft coal in locomotives,
8 factories, power houses and other places;
- 9 Theatres, schools, churches and public places. 20. Regulate the
10 use of theatres, cinema houses, public halls, schools, churches, and
11 other places where numbers of people assemble, and the exits
12 therefrom, so that escape therefrom may be easily and safely made
13 in case of fire or panic; and to regulate any machinery, scenery,
14 lights, wires and other apparatus, equipment or appliances used in
15 all places of public amusement;
- 16 Excavations. 21. Regulate excavations below the established
17 grade or curb line of any street, not greater than eight feet, which
18 the owner of any land may make, in the erection of any building
19 upon his own property; and to provide for the giving of notice, in
20 writing, of such intended excavation to any adjoining owner or
21 owners, and that they will be required to protect and care for their
22 several foundation walls that may be endangered by such
23 excavation; and to provide that in case of the neglect or refusal, for
24 10 days, of such adjoining owner or owners to take proper action to
25 secure and protect the foundations of any adjacent building or other
26 structure, that the party or parties giving such notice, or their
27 agents, contractors or employees, may enter into and upon such
28 adjoining property and do all necessary work to make such
29 foundations secure, and may recover the cost of such work and
30 labor in so protecting such adjacent property; and to make such
31 further and other provisions in relation to the proper conduct and
32 performance of said work as the governing body or board of the
33 municipality may deem necessary and proper;
- 34 Sample medicines. 22. Regulate and prohibit the distribution,
35 depositing or leaving on the public streets or highways, public
36 places or private property, or at any private place or places within
37 any such municipality, any medicine, medicinal preparation or
38 preparations represented to cure ailments or diseases of the body or
39 mind, or any samples thereof, or any advertisements or circulars
40 relating thereto, but no ordinance shall prohibit a delivery of any
41 such article to any person above the age of 12 years willing to
42 receive the same;
- 43 Boating. 23. Regulate the use of motor and other boats upon
44 waters within or bounding the municipality;
- 45 Fire escapes. 24. Provide for the erection of fire escapes on
46 buildings in the municipality, and to provide rules and regulations
47 concerning the construction and maintenance of the same, and for
48 the prevention of any obstruction thereof or thereon;

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1 Care of injured employees. 25. Provide for the payment of
2 compensation and for medical attendance to any officer or
3 employee of the municipality injured in the performance of his
4 duty;

5 Bulkheads and other structures. 26. Fix and determine the lines
6 of bulkheads or other works or structures to be erected, constructed
7 or maintained by the owners of lands facing upon any navigable
8 water in front of their lands, and in front of or along any highway or
9 public lands of said municipality, and to designate the materials to
10 be used, and the type, height and dimensions thereof;

11 Lifeguard. 27. Establish, maintain, regulate and control a
12 lifeguard upon any beach within or bordering on the municipality;

13 Appropriation for life-saving apparatus. 28. Appropriate
14 moneys to safeguard people from drowning within its borders, by
15 location of apparatus or conduct of educational work in harmony
16 with the plans of the United States volunteer life-saving corps in
17 this State;

18 Fences. 29. Regulate the size, height and dimensions of any
19 fences between the lands of adjoining owners, whether built or
20 erected as division or partition fences between such lands, and
21 whether the same exist or be erected entirely or only partly upon the
22 lands of any such adjoining owners, or along or immediately
23 adjacent to any division or partition line of such lands. To provide,
24 in such ordinance, the manner of securing, fastening or shoring such
25 fences, and for surveying the land when required by statute, and to
26 prohibit in any such ordinance the use at a height of under 10 feet
27 from the ground, of any device, such as wire or cable, that would be
28 dangerous to pedestrians, equestrians, bicyclists, or drivers of off-
29 the-road vehicles, unless that device is clearly visible to pedestrians,
30 equestrians, bicyclists or drivers of off-the-road vehicles. In the
31 case of fences thereafter erected contrary to the provisions thereof,
32 the governing body may provide for a penalty for the violation of
33 such ordinance, and in the case of such fence or fences erected or
34 existing at the time of the passage of any such ordinance, may
35 provide therein for the removal, change or alteration thereof, so as
36 to make such fence or fences comply with the provisions of any
37 such ordinance;

38 Advertise municipality. 30. Appropriate funds for advertising
39 the advantages of the municipality;

40 Government Energy Aggregation Programs. 31. Establish
41 programs and procedures pursuant to which the municipality may
42 act as a government aggregator pursuant to sections 40 through 45
43 of P.L.1999, c.23 (C.48:3-89 through C.48:3-94). Notwithstanding
44 the provisions of any other law, rule or regulation to the contrary, a
45 municipality acting as a government aggregator pursuant to
46 P.L.1999, c.23 (C.48:3-49 et al.) shall not be deemed to be a public
47 utility pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed
48 to be operating any form of public utility service pursuant to

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1 R.S.40:62-1 et seq., to the extent such municipality is solely
2 engaged in the provision of such aggregation service and not
3 otherwise owning or operating any plant or facility for the
4 production or distribution of gas, electricity, steam or other product
5 as provided in R.S.40:62-12.
6 (cf: P.L.2001, c.36, s.1)

7
8 2. (New section) Whenever any municipality, pursuant to law or
9 pursuant to any ordinance, code, rule or regulation adopted pursuant
10 to law, undertakes the removal of graffiti from any building or
11 structure, the governing body of the municipality, in addition to
12 assessing the cost of such removal or demolition as a municipal lien
13 against the premises, may enforce the payment of such assessment,
14 together with interest, as a debt of the owner of the premises and
15 may authorize the institution of an action at law for the collection
16 thereof. The Superior Court shall have jurisdiction of any such
17 action.

18 A municipality may seek the removal of graffiti on public
19 property situated within that municipality by notifying by certified
20 mail the public entity which is the owner of record of the property.
21 If the public entity does not undertake the removal of the graffiti
22 within 90 days of the provision of notice, the municipality may
23 undertake the removal of the graffiti from that property and present
24 a detailed itemization of the costs incurred by the municipality for
25 reimbursement by the public entity.

26 For the purposes of this section, "graffiti" means any drawing,
27 painting or making of any mark or inscription on public or private
28 real or personal property without the permission of the owner.

29
30 3. This act shall take effect immediately.

31
32
33 STATEMENT

34
35 This bill authorizes municipalities to enact ordinances
36 prohibiting acts of graffiti on buildings located in the municipality
37 and requiring a property owner to remove graffiti from his or her
38 building. If the owner of the building refuses to remove the graffiti,
39 the municipality may remove it and charge the property owner for
40 the cost of removal. Not only is the governing body authorized to
41 assess the cost of the removal or demolition as a municipal lien
42 against the premises, but may enforce the payment of the
43 assessment along with any interest thereon, as a debt of the owner
44 of the premises.

45 A municipality may seek the removal of graffiti on public
46 property situated within that municipality by notifying by certified
47 mail the public entity which is the owner of record of the property.
48 If the public entity does not undertake the removal of the graffiti

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1 within 90 days of the provision of notice, the municipality may
2 undertake the removal of the graffiti from that property and present
3 a detailed itemization of the costs incurred by the municipality for
4 reimbursement by the public entity.

5 The bill defines "graffiti" as any drawing, painting or making of
6 any mark or inscription on public or private real or personal
7 property without the permission of the owner.

8 Under N.J.S.A.2A:153-4.1, the governing body of any
9 municipality may provide for the offering of rewards not exceeding
10 \$500 each for the detection and apprehension of any person guilty
11 of purposely or knowingly damaging tangible property of another
12 by an act of graffiti in violation of N.J.S.2C:17-3. That statute
13 provides that a person convicted of an offense of criminal mischief
14 that involves an act of graffiti may, in addition to any other penalty
15 imposed by the court, be required to pay restitution to the owner of
16 the damaged property and perform community service, which shall
17 include removing the graffiti from the property.

18 Under N.J.S.2C:33-11, a person convicted of an offense that
19 involves the defacement of private property through an act of
20 graffiti similarly may be required to pay restitution or perform
21 community service, in addition to any other penalty imposed by the
22 court.

23 This bill provides municipalities with an additional means of
24 combating the deleterious effects of graffiti on private property.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 650

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Assembly Housing and Local Government Committee reports favorably Senate Committee Substitute for Senate Bill No. 650.

This committee substitute, the "Municipal Beautification Act," would authorize municipal governing bodies to adopt ordinances to:

prohibit acts of graffiti on buildings, structures and other exposed surfaces located within the municipality, and

require the owner of a building, structure or other exposed surface located in the municipality to remove graffiti.

The substitute defines "graffiti" as any drawing, painting or making of any mark or inscription on public or private real or personal property without the prior written permission of the owner of the property.

The substitute provides that an ordinance requiring an owner to remove graffiti must:

provide the property owner with written notice of the order to remove graffiti by certified and regular mail, and

afford the owner the opportunity to remove the graffiti within 90 days from the date that the notice is sent. However, an ordinance would have to afford the Department of Transportation (DOT) the opportunity to remove the graffiti within 120 days from the date that the notice is sent.

The notice to remove graffiti must contain a form to be utilized by a property owner to inform the municipality that the graffiti has been removed. The form would contain a provision stating that by affixing a signature to the form, indicating that graffiti has been removed, the owner is certifying that the facts set forth therein are true and that the certification shall be considered as if made under oath and subject to the same penalties as provided by law for perjury.

An owner who has been ordered to remove graffiti shall respond to the municipality by personal delivery or by certified mail:

of any objection to the order, within 30 days of the date of the order, or

of notice that the graffiti has been removed, within 90 days of the date of the order (except that DOT would be afforded 120 days).

An owner who objects to an order to remove graffiti may institute an action challenging the order before a court of competent jurisdiction within 60 days of the date of the order.

If a property owner does not undertake the removal of graffiti within 90 days (120 days in the case of DOT) of the date of the order, unless an action challenging the order to remove graffiti is still pending, the municipality may remove the graffiti from that property and present a detailed itemization of the costs incurred by the municipality for reimbursement from the property owner.

Whenever a municipality undertakes the removal of graffiti from any building, structure or other exposed surface, the governing body of the municipality, in addition to assessing the cost of removal as a municipal lien against the premises, may enforce the payment of such assessment, together with interest, as a debt of the owner of the property and may authorize the institution of an action at law for the collection thereof. The Superior Court shall have jurisdiction of any such action.

Additionally, the substitute would amend the provision of law establishing the "Clean Communities Program Fund" to allow the State to use moneys in the fund to abate graffiti.

Under N.J.S.A.2A:153-4.1, the governing body of any municipality may provide for the offering of rewards not exceeding \$500 each for the detection and apprehension of any person guilty of purposely or knowingly damaging tangible property of another by an act of graffiti in violation of N.J.S.A.2C:17-3. That statute provides that a person convicted of an offense of criminal mischief that involves an act of graffiti may, in addition to any other penalty imposed by the court, be required to pay restitution to the owner of the damaged property and perform community service, which shall include removing the graffiti from the property.

Under N.J.S.A.2C:33-11, a person convicted of an offense that involves the defacement of private property through an act of graffiti similarly may be required to pay restitution or perform community service, in addition to any other penalty imposed by the court.

This bill provides municipalities with an additional means of combating the deleterious effects of graffiti on private property.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 650**

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 2006

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 650.

This committee substitute, the "Municipal Beautification Act," would authorize municipal governing bodies to adopt ordinances to:

prohibit acts of graffiti on buildings, structures and other exposed surfaces located within the municipality, and

require the owner of a building, structure or other exposed surface located in the municipality to remove graffiti.

The substitute defines "graffiti" as any drawing, painting or making of any mark or inscription on public or private real or personal property without the prior written permission of the owner of the property.

The substitute provides that an ordinance requiring an owner to remove graffiti must:

provide the property owner with written notice of the order to remove graffiti by certified and regular mail, and

afford the owner the opportunity to remove the graffiti within 90 days from the date that the notice is sent. However, an ordinance would have to afford the Department of Transportation (DOT) the opportunity to remove the graffiti within 120 days from the date that the notice is sent.

The notice to remove graffiti must contain a form to be utilized by a property owner to inform the municipality that the graffiti has been removed. The form would contain a provision stating that by affixing a signature to the form, indicating that graffiti has been removed, the owner is certifying that the facts set forth therein are true and that the certification shall be considered as if made under oath and subject to the same penalties as provided by law for perjury.

An owner who has been ordered to remove graffiti shall respond to the municipality by personal delivery or by certified mail:

of any objection to the order, within 30 days of the date of the order, or

of notice that the graffiti has been removed, within 90 days of the date of the order (except that DOT would be afforded 120 days).

An owner who objects to an order to remove graffiti may institute

an action challenging the order before a court of competent jurisdiction within 60 days of the date of the order.

If a property owner does not undertake the removal of graffiti within 90 days (120 days in the case of DOT) of the date of the order, unless an action challenging the order to remove graffiti is still pending, the municipality may remove the graffiti from that property and present a detailed itemization of the costs incurred by the municipality for reimbursement from the property owner.

Whenever a municipality undertakes the removal of graffiti from any building, structure or other exposed surface, the governing body of the municipality, in addition to assessing the cost of removal as a municipal lien against the premises, may enforce the payment of such assessment, together with interest, as a debt of the owner of the property and may authorize the institution of an action at law for the collection thereof. The Superior Court shall have jurisdiction of any such action.

Additionally, the substitute would amend the provision of law establishing the "Clean Communities Program Fund" to allow the State to use moneys in the fund to abate graffiti.

Under N.J.S.A.2A:153-4.1, the governing body of any municipality may provide for the offering of rewards not exceeding \$500 each for the detection and apprehension of any person guilty of purposely or knowingly damaging tangible property of another by an act of graffiti in violation of N.J.S.2C:17-3. That statute provides that a person convicted of an offense of criminal mischief that involves an act of graffiti may, in addition to any other penalty imposed by the court, be required to pay restitution to the owner of the damaged property and perform community service, which shall include removing the graffiti from the property.

Under N.J.S.2C:33-11, a person convicted of an offense that involves the defacement of private property through an act of graffiti similarly may be required to pay restitution or perform community service, in addition to any other penalty imposed by the court.

This bill provides municipalities with an additional means of combating the deleterious effects of graffiti on private property.