

55:19-55

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 118

NJSA: 55:19-55 (Makes various technical changes to "Abandoned Properties Rehabilitation Act")

BILL NO: A3673 (Substituted for S2243)

SPONSOR(S): Watson and Green

DATE INTRODUCED: January 11, 2005

COMMITTEE: **ASSEMBLY:** Housing and Local Government
SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** May 16, 2005
SENATE: May 12, 2005

DATE OF APPROVAL: June 29, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

A3673

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

S2243

[SPONSOR'S STATEMENT:](#) (Begins on page 14 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

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P.L. 2005, CHAPTER 118, *approved June 29, 2005*
Assembly, No. 3673 (*Second Reprint*)

1 **AN ACT** concerning abandoned property and amending P.L.1996,
2 c.62, P.L.2003, c.210, and various sections of chapter 5 of Title 54
3 of the Revised Statutes.

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

7
8 1. Section 36 of P.L.1996, c.62 (C.55:19-55) is amended to read
9 as follows:

10 36. a. A qualified municipality that has designated or appointed a
11 public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5),
12 may adopt an ordinance directing the public officer to identify
13 abandoned property for the purpose of establishing an abandoned
14 property list throughout the municipality, or within those parts of the
15 municipality as the governing body may designate **[by resolution]**.
16 Each item of abandoned property so identified shall include the tax
17 block and lot number, the name of the owner of record, if known, and
18 the street address of the lot.

19 b. In those municipalities in which abandoned properties have been
20 identified in accordance with subsection a. of this section, the public
21 officer shall establish and maintain a list of abandoned property, to be
22 known as the "abandoned property list." The municipality may add
23 properties to the abandoned property list at any time, and may delete
24 properties at any time when the public officer finds that the property
25 no longer meets the definition of an abandoned property. An
26 interested party may request that a property be included on the
27 abandoned property list following that procedure set forth in section
28 31 of P.L.2003, c.210 (C.55:19-105).

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

38 c. The Department of Community Affairs in conjunction with the
39 Department of Environmental Protection shall prepare an information

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHO committee amendments adopted February 7, 2005.

² Senate floor amendments adopted March 21, 2005.

1 bulletin for distribution to every municipality describing the authority
2 of a municipality under existing statutes and regulations to repair,
3 demolish or otherwise deal with abandoned property.

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

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

41 e. An owner or lienholder may challenge the inclusion of his
42 property on the abandoned property list determined pursuant to
43 subsection b. of this section by appealing that determination to the
44 public officer within 30 days of the owner's receipt of the certified
45 notice or 40 days from the date upon which the notice was sent. An
46 owner whose identity was not known to the public officer shall have

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

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

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

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

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

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

3 37. a. Notwithstanding R.S.54:5-19 or the provisions of any other
4 law to the contrary, if a property is included on the abandoned
5 property list and the property taxes or other municipal liens due on the
6 property are delinquent six or more quarters as of the date of
7 expiration of the right to appeal inclusion on the list, or, if an appeal
8 has been filed, as of the date that all opportunities for appeal of
9 inclusion on the list have been exhausted, then the tax lien on the
10 property may be sold in accordance with the procedures in the "tax
11 sale law," R.S.54:5-1 et seq., on or after the 90th day following the
12 expiration of that time of appeal or final determination on an appeal,
13 as appropriate. [The purchaser of a tax sale certificate sold pursuant
14 to this subsection, unless it is the municipality or the authority or its
15 subsidiaries, shall be required to post bond to guarantee the
16 rehabilitation of the property in accordance with the requirements for
17 an owner to remove the property from the abandoned property list
18 pursuant to section 36 of P.L.1996, c.62 (C.55:19-55). The cost of
19 the bond posted by the purchaser of the tax sale certificate shall be
20 added to the amount required to be paid by the owner for redemption
21 of the property.] The municipality may, at its option, require that the
22 sale of the tax sale certificate or any subsequent assignment or transfer
23 of a tax sale certificate held by the municipality be subject to the
24 express condition that the purchaser or assignee shall be obliged to
25 perform and conclude any rehabilitation or repairs necessary to remove
26 the property from the abandoned property list pursuant to section 36
27 of P.L.1996, c.62 (C.55:19-55) and to post a bond in favor of the
28 municipality to guarantee the rehabilitation or repair of the property.
29 The public officer may waive a requirement to post a bond imposed by
30 a municipality for any purchaser, assignee or transferee of a tax sale
31 certificate that provides documentation acceptable to the public officer
32 that the purchaser, assignee or transferee is a qualified rehabilitation
33 entity as defined in section 3 of P.L.2003, c.210 (C.55:19-80). The
34 cost of rehabilitation and repairs and the cost of the bond shall be
35 added to the amount required to be paid by the owner for redemption
36 of the property. The purchaser, assignee or transferee of the tax sale
37 certificate who is required to rehabilitate and repair the property shall
38 be required to file the appropriate affidavits with the tax collector,
39 pursuant to R.S.54:5-62, representing the amounts of moneys
40 expended periodically toward the rehabilitation or repair of the
41 property. A purchaser, assignee or transferee shall be entitled to
42 interest on the amounts expended, as set forth in the affidavits, at the
43 delinquent rate of interest for delinquencies in excess of \$1,500
44 pursuant to R.S.54:4-67 of the municipality in effect for the time
45 period when the amounts were expended. The tax sale certificate
46 purchaser, assignee or transferee, under the auspices and with the

1 authority of the municipality, shall be permitted to enter in and upon
2 the property for the purposes of appraising the costs of rehabilitation
3 and repair and to perform all other acts required to guarantee the
4 completion of the rehabilitation or repair of the property. No
5 rehabilitation or repair work shall be commenced, however, until proof
6 of adequate liability insurance and an indemnification agreement
7 holding the municipality harmless is filed with the public officer. If the
8 tax sale certificate is not purchased at the initial auction of the tax sale
9 certificate and the municipality purchases the certificate pursuant to
10 R.S.54:5-34, then the municipality is authorized and empowered to
11 convey and transfer to the authority or any of its subsidiaries, without
12 receiving compensation therefor, all of its right, title and interest in
13 that certificate; however, any portion of the amount paid to the tax
14 collector to redeem the tax sale certificate that represents tax or other
15 municipal lien delinquencies and subsequent municipal liens, including
16 interest, shall be returned by the tax collector to the municipality.

17 b. (1) If the municipality or the authority or its subsidiaries
18 acquires the tax sale certificate for a property on the abandoned
19 property list, then, upon 10 days' written notice to the property owner
20 and any mortgagee as of the date of the filing of the lis pendens notice
21 under subsection d. of section 36 of P.L.1996, c.62 (C.55:19-55), that
22 entity shall be permitted to enter upon the property and remediate any
23 conditions that caused the property to be included on the abandoned
24 property list. No remediation shall be commenced, however, if within
25 that 10-day period the owner or mortgagee shall have notified the
26 municipality or authority or its subsidiary, as appropriate, in writing
27 that the owner or mortgagee has elected to perform the remediation
28 itself. When the owner or mortgagee elects to perform the
29 remediation itself, it shall be required to post bond in favor of the
30 municipality or authority or its subsidiaries, as appropriate, in order to
31 ensure performance. The amount and conditions of the bond shall be
32 determined by the public officer.

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

46 c. (1) Failure of an owner or lienholder to remove a property from

1 the abandoned property list within [60 days after expiration of] the
2 period of time for appeal of inclusion of the property on the list
3 pursuant to subsection e. of section 36 of P.L.1996, c.62
4 (C.55:19-55), shall be prima facie evidence of the intent of the owner
5 to continue to maintain the property as abandoned property.

6 (2) The clearance, development, redevelopment, or repair of
7 property being maintained as an abandoned property pursuant to
8 paragraph (1) of this subsection shall be a public purpose and public
9 use for which the power of eminent domain may be exercised.

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

11
12 3. Section 4 of P.L.2003, c.210 (C.55:19-81) is amended to read
13 as follows:

14 4. Except as provided in section 6 of P.L.2003, c.210
15 (C.55:19-83), any property that has not been legally occupied for a
16 period of six months and which meets any one of the following
17 additional criteria may be deemed to be abandoned property upon a
18 determination by the public officer that:

19 a. The property is in need of rehabilitation in the reasonable
20 judgment of the public officer, and no rehabilitation has taken place
21 during that six-month period;

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

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

30 d. The property has been determined to be a nuisance by the public
31 officer in accordance with section 5 of P.L.2003, c.210 (C.55:19-82).

32 A property which contains both residential and non-residential
33 space may be considered abandoned pursuant to P.L.2003, c.210
34 (C.55:19-78 et al.) so long as two-thirds or more of the total net
35 square footage of the building was previously¹ legally¹ occupied as
36 residential space and none of the residential space¹ [is] has been
37 legally¹ occupied¹ for at least six months¹ at the time of the
38 determination of abandonment by the public officer¹ [pursuant to] and
39 the property meets the criteria of either subsection a. or subsection d.
40 of¹ this section.

41 (cf: P.L.2003, c.210, s.4)

42
43 4. Section 6 of P.L.2003, c.210 (C.55:19-83) is amended to read
44 as follows:

45 6. a. If an entity other than the municipality has purchased or
46 taken assignment from the municipality of a tax sale certificate on ²[an

1 unoccupied] a² property ²that has not been legally occupied for a
2 period of six months², that property shall not be ²[deemed to be]
3 placed on the² abandoned ²property list pursuant to section 36 of
4 P.L.1996, c.62 (C.55:19-55)² if (1) the owner of the certificate has
5 continued to pay all municipal taxes and liens on the property in the
6 tax year when due; and (2) the owner of the certificate takes action to
7 initiate foreclosure proceedings within six months after the property
8 is eligible for foreclosure ²pursuant to either subsection a. or
9 subsection b. of R.S.54:5-86, as appropriate.² and diligently pursues
10 foreclosure proceedings in a timely fashion thereafter.

11 b. A property which is used on a seasonal basis shall be deemed to
12 be abandoned only if the property meets any two of the additional
13 criteria set forth in section 4 of P.L.2003, c.210 (C.55:19-81).

14 c. A determination that a property is abandoned property under the
15 provisions of P.L.2003, c.210 (C.55:19-78 et al.) shall not constitute
16 a finding that the use of the property has been abandoned for purposes
17 of municipal zoning or land use regulation.

18 d. Upon the request of a purchaser or assignee of a tax sale
19 certificate seeking to bar the right of redemption on an abandoned
20 property pursuant to subsection b. of R.S.54:5-86, the public officer
21 or the tax collector shall, in a timely fashion, provide the requester
22 with a certification that the property fulfills the definition of
23 abandoned according to the criteria set forth in sections 4 and 5 of
24 P.L.2003, c.210 (C.55:19-81 and C.55:19-82). ²[This certification
25 shall be deemed conclusive for the purposes of any action taken under
26 subsection b. of R.S.54:5-86.]²

27 (cf: P.L.2003, c.210, s.6)

28

29 5. Section 9 of P.L.2003, c.210 (C.55:19-86) is amended to read
30 as follows:

31 9. a. Within 10 days of filing a complaint pursuant to P.L.2003,
32 c.210 (C.55:19-78 et al.), the plaintiff shall file a notice of lis pendens
33 with the county recording officer of the county within which the
34 building is located.

35 b. At least 30 days before filing the complaint, the municipality
36 shall serve a notice of intention to take possession of an abandoned
37 building. The notice shall inform the owner and interested parties that
38 the property has not been legally occupied for six months and of those
39 criteria that led to a determination of abandonment pursuant to section
40 4 of P.L.2003, c.210 (C.55:19-81).

41 The notice shall provide that unless the owner or a party in interest
42 prepares and submits a rehabilitation plan to the appropriate municipal
43 officials, the municipality will seek to gain possession of the building
44 to rehabilitate the property and the associated cost shall be a lien
45 against the property, which may be satisfied by the sale of the
46 property, unless the owner applies to the court for reinstatement of

1 control of the property as provided in section 15 of P.L.2003, c.210
2 (C.55:19-92).

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

5 c. After serving the notice of intent pursuant to subsection b. of
6 this section, the municipality or its designee may enter upon that
7 property after written notice to the owner by certified mail, return
8 receipt requested, in order to secure, stabilize or repair the property,
9 or in order to inspect the property for purposes of preparing the plan
10 to be submitted to the court pursuant to section 12 of P.L.2003, c.210
11 (C.55:19-89).

12 (cf: P.L.2003, c.210, s.9)

13

14 6. Section 10 of P.L.2003, c.210 (C.55:19-87) is amended to read
15 as follows:

16 10. a. Any owner may defend against a complaint filed pursuant
17 to section 7 of P.L.2003, c.210 (C.55:19-84) by submitting a plan for
18 the rehabilitation and reuse of the property which is the subject of the
19 complaint and by posting a bond equal to 125 percent of the amount
20 determined by the public officer or the court to be the projected cost
21 of rehabilitation.

22 Any plan submitted by an owner to defend against a complaint shall
23 be submitted within 60 days after the complaint has been filed, unless
24 the court provides the owner with an extension of time for good cause
25 shown.

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

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

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

34 (3) A timetable for the completion of rehabilitation and reuse of the
35 property, including milestones for performance of major steps leading
36 to and encompassing the rehabilitation and reuse of the property; and

37 (4) Documentation of the qualifications of the individuals and firms
38 that will be engaged to carry out the planning, design, financial
39 packaging, construction, and marketing or rental of the property.

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

43 (2) If the court approves the owner's plan, then it may appoint the
44 public officer to act as monitor of the owner's compliance. If the
45 owner fails to carry out any step in the approved plan, then the
46 municipality may apply to the court to have the owner's bond forfeited,

1 possession of the building transferred to the municipality to complete
2 the rehabilitation plan and authorization to use the bond proceeds for
3 rehabilitation of the property.

4 (3) The owner shall provide quarterly reports to the municipality
5 on its activities and progress toward rehabilitation and reuse of the
6 property. The owner shall provide those reports to the court on its
7 activities that the court determines are necessary.

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

13 (cf: P.L.2003, c.210, s.10)

14

15 7. Section 11 of P.L.2003, c.210 (C.55:19-88) is amended to read
16 as follows:

17 11. a. If an owner is unsuccessful in defending against a complaint
18 filed pursuant to section 7 of P.L.2003, c.210 (C.55:19-84), the
19 mortgage holder or lien holder may seek to be designated in
20 possession of the property by submitting a plan and posting a bond
21 meeting the same conditions as set forth in section 10 of P.L.2003,
22 c.210 (C.55:19-87). The plan shall be submitted within ¹[45] 60¹
23 days after the court has rejected the owner's plan, unless the court
24 provides the mortgage holder or lienholder with an extension of time
25 for good cause shown. If the court approves any such mortgage
26 holder or lien holder's plan, it shall designate that party to be in
27 possession of the property for purposes of ensuring its rehabilitation
28 and reuse and may appoint the public officer to act as monitor of the
29 party's compliance.

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

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

38 b. Any sums incurred or advanced for the purpose of rehabilitating
39 the property by a mortgage holder or lien holder granted possession
40 of a property pursuant to subsection a. of this section, including court
41 costs and reasonable attorney's fees, may be added to the unpaid
42 balance due that mortgage holder or lien holder, with interest
43 calculated at the same rate set forth in the note or security agreement;
44 or, in the case of a tax lien holder, at the statutory interest rate for
45 subsequent liens.

46 (cf: P.L.2003, c.210, s.11)

1 8. Section 23 of P.L.2003, c.210 (C.55:19-100) is amended to read
2 as follows:

3 23. With respect to any lien placed against any real property
4 pursuant to the provisions of section 1 or section 3 of P.L.1942, c.112
5 (C.40:48-2.3 or C.40:48-2.5) or section 1 of P.L.1989, c.91
6 (C.40:48-2.3a) or any receiver's lien pursuant to P.L.2003, c.295
7 (C.2A:42-114 et al.), the municipality shall have recourse with respect
8 to the lien against any asset of the owner of the property if an
9 individual, against any asset of any partner if a partnership, and against
10 any asset of any owner of a 10% interest or greater if [a corporation]
11 the owner is any other business organization or entity recognized
12 pursuant to law.
13 (cf: P.L.2003, c.210, s.23)

14

15 9. Section 24 of P.L.2003, c.210 (C.55:19-101) is amended to read
16 as follows:

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

23 a. The municipality shall establish criteria for eligibility to bid on
24 properties at the sale, which may include, but shall not be limited to:
25 documentation of the bidder's ability to rehabilitate or otherwise reuse
26 the property consistent with municipal plans and regulations;
27 commitments by the bidder to rehabilitate or otherwise reuse the
28 property, consistent with municipal plans and regulations;
29 commitments by the bidder to take action to foreclose on the tax lien
30 by a date certain; and such other criteria as the municipality may
31 determine are necessary to ensure that the properties to be sold will be
32 rehabilitated or otherwise reused in a manner consistent with the
33 public interest;

34 b. The municipality may establish minimum bid requirements
35 [consistent with the provisions of subsection b. of section 1 of
36 P.L.1941, c.232 (C.54:5-114.1)] for a special tax sale that may be less
37 than the full amount of the taxes, interest and penalties due, the
38 amount of such minimum bid to be at the sole discretion of the
39 municipality, in order to ensure that the properties to be sold will be
40 rehabilitated or otherwise reused in a manner consistent with the
41 public interest;

42 c. The municipality may combine properties into bid packages, and
43 require that bidders place a single bid on each package, and reject any
44 and all bids on individual properties that have been included in bid
45 packages;

46 d. The municipality may sell properties subject to provisions that,

1 if the purchaser fails to carry out any commitment that has been set
2 forth as a condition of sale pursuant to subsection a. of this section or
3 misrepresents any material qualification that has been established as a
4 condition of eligibility to bid pursuant thereto, then the properties and
5 any interest thereto acquired by the purchaser shall revert to the
6 municipality, and any amount paid by the purchaser to the municipality
7 at the special tax sale shall be forfeit to the municipality;

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

12 f. In the event that the purchaser of that property or bid package
13 fails to meet any of the conditions of sale established by the
14 municipality pursuant to this section, and their interest in the property
15 or properties reverts to the municipality, the municipality may
16 subsequently designate the entity previously designated as an eligible
17 purchaser as the winning bidder for the property or properties, and
18 assign the tax sale certificates to that entity on the basis of that entity's
19 bid at the special tax sale, subject to the terms and conditions of the
20 special tax sale.

21 g. The municipality shall provide notice of a special tax sale
22 pursuant to R.S.54:5-26. The notice shall include any special terms of
23 sale established by the municipality pursuant to subsections b., c. or d.
24 of this section. Nothing shall prohibit the municipality from holding a
25 special tax sale on the same day as a standard or accelerated tax sale.
26 (cf: P.L.2003, c.210, s.24)

27
28 10. R.S.54:5-26 is amended to read as follows:

29 54:5-26. Copies of the notice of a tax sale shall be set up in five of
30 the most public places in the municipality, and a copy of the notice
31 shall be published in a newspaper circulating in the municipality, once
32 in each of the four calendar weeks preceding the calendar week
33 containing the day appointed for the sale. In lieu of any two
34 publications, notice to the property owner and to any person or entity
35 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,
36 c.96 (C.54:5-104.48) may be given by regular or certified mail, the
37 costs of which shall be added to the cost of the sale in addition to
38 those provided in R.S.54:5-38, not to exceed \$25 for each set of
39 notices for a particular property.

40 For the purposes of notice in connection with a special tax sale for
41 eligible properties which are on an abandoned property list established
42 by the municipality pursuant to section 36 of P.L.1996, c.62 (C.55:19-
43 55), a single advertisement published in a newspaper circulating in the
44 municipality no less than four and no more than six weeks prior to the
45 sale, along with notice to the property owner and any person or entity
46 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,

1 c.96 (C.54:5-104.48), shall constitute sufficient notice of sale on the
2 part of the municipality.

3 Failure of the property owner to receive a notice of a tax sale
4 properly mailed by the tax collector shall not constitute grounds to
5 void the subsequent tax sale. If ordinances of the municipality are
6 required to be published in any special newspaper or newspapers, the
7 notice shall be published therein.

8 (cf: P.L.1997, c.99, s.6)

9

10 11. R.S.54:5-86 is amended to read as follows:

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

23 b. Any person holding a tax sale certificate on a property that
24 meets the definition of abandoned property as set forth in P.L.2003,
25 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
26 thereafter, may at any time file an action with the Superior Court in
27 the county wherein said municipality is situate, demanding that the
28 right of redemption on such property be barred, pursuant to
29 [R.S.54:5-77] the "tax sale law," R.S.54:5-1 et seq. The filing shall
30 include a certification by the public officer or the tax collector that the
31 property is abandoned, provided pursuant to subsection d. of section
32 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate
33 holder has unsuccessfully sought such certification from the public
34 officer or tax collector, as the case may be, the certificate holder may
35 submit to the court evidence that the property is abandoned,
36 accompanied by a report and sworn statement by an individual holding
37 appropriate licensure or professional qualifications, and shall provide
38 a copy of those documents submitted to the court to the public officer
39 and the tax collector. On the basis of this submission and any
40 submission provided by the public officer or tax collector, as the case
41 may be, the court shall determine whether the property meets the
42 definition of abandoned property.

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

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

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

8 (cf: P.L.2003, c.210, s.32)

9
10 ¹12. Section 3 of P.L.2003, c.210 (C.55:19-80) is amended to read
11 as follows:

12 3. As used in sections 1 through 25 of P.L.2003, c.210
13 (C.55:19-78 through C.55:17-102):

14 "Department" means the New Jersey Department of Community
15 Affairs.

16 "Lienholder" or "mortgage holder" means any person or entity
17 holding a note, mortgage or other interest secured by the building or
18 any part thereof.

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

24 "Owner" means the holder or holders of title to an abandoned
25 property.

26 "Property" means any building or structure and the land appurtenant
27 thereto.

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

36 "Qualified rehabilitation entity" means an entity organized or
37 authorized to do business under the New Jersey statutes which shall
38 have as one of its purposes the construction or rehabilitation of
39 residential or non-residential buildings, the provision of affordable
40 housing, the restoration of abandoned property, the revitalization and
41 improvement of urban neighborhoods, or similar purpose, and which
42 shall be well qualified by virtue of its staff, professional consultants,
43 financial resources, and prior activities set forth in P.L.2003, c.210
44 (C.55:19-78 et al.) to carry out the rehabilitation of vacant buildings
45 in urban areas.¹

46 (cf: P.L.2003, c.210, s.3)

1 ¹[12.] 13.¹ This act shall take effect immediately.

2

3

4

5

6 Makes various technical corrections and modifications to the

7 "Abandoned Properties Rehabilitation Act," P.L.2003, c.210.

ASSEMBLY, No. 3673

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JANUARY 11, 2005

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

SYNOPSIS

Makes various technical corrections and modifications to the "Abandoned Properties Rehabilitation Act," P.L.2003, c.210.

CURRENT VERSION OF TEXT

As introduced.



A3673 WATSON COLEMAN

2

1 AN ACT concerning abandoned property and amending P.L.1996,
2 c.62, P.L.2003, c.210, and various sections of chapter 5 of Title 54
3 of the Revised Statutes.

4

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

7

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

10 36. a. A qualified municipality that has designated or appointed a
11 public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5),
12 may adopt an ordinance directing the public officer to identify
13 abandoned property for the purpose of establishing an abandoned
14 property list throughout the municipality, or within those parts of the
15 municipality as the governing body may designate [by resolution].
16 Each item of abandoned property so identified shall include the tax
17 block and lot number, the name of the owner of record, if known, and
18 the street address of the lot.

19 b. In those municipalities in which abandoned properties have been
20 identified in accordance with subsection a. of this section, the public
21 officer shall establish and maintain a list of abandoned property, to be
22 known as the "abandoned property list." The municipality may add
23 properties to the abandoned property list at any time, and may delete
24 properties at any time when the public officer finds that the property
25 no longer meets the definition of an abandoned property. An
26 interested party may request that a property be included on the
27 abandoned property list following that procedure set forth in section
28 31 of P.L.2003, c.210 (C.55:19-105).

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

38 c. The Department of Community Affairs in conjunction with the
39 Department of Environmental Protection shall prepare an information
40 bulletin for distribution to every municipality describing the authority
41 of a municipality under existing statutes and regulations to repair,
42 demolish or otherwise deal with abandoned property.

43 d. (1) The public officer[, within 10 days of the establishment of

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

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

37 e. An owner or lienholder may challenge the inclusion of his
38 property on the abandoned property list determined pursuant to
39 subsection b. of this section by appealing that determination to the
40 public officer within 30 days of the owner's receipt of the certified
41 notice or 40 days from the date upon which the notice was sent. An
42 owner whose identity was not known to the public officer shall have
43 40 days from the date upon which notice was published or posted,
44 whichever is later, to challenge the inclusion of a property on the
45 abandoned property list. For good cause shown, the public officer
46 shall accept a late filing of an appeal. Within 30 days of receipt of a

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

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

31 g. The public officer shall promptly remove any property from the
32 abandoned property list that has been determined not to be abandoned
33 on appeal.

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

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

42

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

45 37. a. Notwithstanding R.S.54:5-19 or the provisions of any other
46 law to the contrary, if a property is included on the abandoned

1 property list and the property taxes or other municipal liens due on the
2 property are delinquent six or more quarters as of the date of
3 expiration of the right to appeal inclusion on the list, or, if an appeal
4 has been filed, as of the date that all opportunities for appeal of
5 inclusion on the list have been exhausted, then the tax lien on the
6 property may be sold in accordance with the procedures in the "tax
7 sale law," R.S.54:5-1 et seq., on or after the 90th day following the
8 expiration of that time of appeal or final determination on an appeal,
9 as appropriate. [The purchaser of a tax sale certificate sold pursuant
10 to this subsection, unless it is the municipality or the authority or its
11 subsidiaries, shall be required to post bond to guarantee the
12 rehabilitation of the property in accordance with the requirements for
13 an owner to remove the property from the abandoned property list
14 pursuant to section 36 of P.L.1996, c.62 (C.55:19-55). The cost of
15 the bond posted by the purchaser of the tax sale certificate shall be
16 added to the amount required to be paid by the owner for redemption
17 of the property.] The municipality may, at its option, require that the
18 sale of the tax sale certificate or any subsequent assignment or transfer
19 of a tax sale certificate held by the municipality be subject to the
20 express condition that the purchaser or assignee shall be obliged to
21 perform and conclude any rehabilitation or repairs necessary to remove
22 the property from the abandoned property list pursuant to section 36
23 of P.L.1996, c.62 (C.55:19-55) and to post a bond in favor of the
24 municipality to guarantee the rehabilitation or repair of the property.
25 The public officer may waive a requirement to post a bond imposed by
26 a municipality for any purchaser, assignee or transferee of a tax sale
27 certificate that provides documentation acceptable to the public officer
28 that the purchaser, assignee or transferee is a qualified rehabilitation
29 entity as defined in section 3 of P.L.2003, c.210 (C.55:19-80). The
30 cost of rehabilitation and repairs and the cost of the bond shall be
31 added to the amount required to be paid by the owner for redemption
32 of the property. The purchaser, assignee or transferee of the tax sale
33 certificate who is required to rehabilitate and repair the property shall
34 be required to file the appropriate affidavits with the tax collector,
35 pursuant to R.S.54:5-62, representing the amounts of moneys
36 expended periodically toward the rehabilitation or repair of the
37 property. A purchaser, assignee or transferee shall be entitled to
38 interest on the amounts expended, as set forth in the affidavits, at the
39 delinquent rate of interest for delinquencies in excess of \$1,500
40 pursuant to R.S.54:4-67 of the municipality in effect for the time
41 period when the amounts were expended. The tax sale certificate
42 purchaser, assignee or transferee, under the auspices and with the
43 authority of the municipality, shall be permitted to enter in and upon
44 the property for the purposes of appraising the costs of rehabilitation
45 and repair and to perform all other acts required to guarantee the
46 completion of the rehabilitation or repair of the property. No

1 rehabilitation or repair work shall be commenced, however, until proof
2 of adequate liability insurance and an indemnification agreement
3 holding the municipality harmless is filed with the public officer. If the
4 tax sale certificate is not purchased at the initial auction of the tax sale
5 certificate and the municipality purchases the certificate pursuant to
6 R.S.54:5-34, then the municipality is authorized and empowered to
7 convey and transfer to the authority or any of its subsidiaries, without
8 receiving compensation therefor, all of its right, title and interest in
9 that certificate; however, any portion of the amount paid to the tax
10 collector to redeem the tax sale certificate that represents tax or other
11 municipal lien delinquencies and subsequent municipal liens, including
12 interest, shall be returned by the tax collector to the municipality.

13 b. (1) If the municipality or the authority or its subsidiaries
14 acquires the tax sale certificate for a property on the abandoned
15 property list, then, upon 10 days' written notice to the property owner
16 and any mortgagee as of the date of the filing of the lis pendens notice
17 under subsection d. of section 36 of P.L.1996, c.62 (C.55:19-55), that
18 entity shall be permitted to enter upon the property and remediate any
19 conditions that caused the property to be included on the abandoned
20 property list. No remediation shall be commenced, however, if within
21 that 10-day period the owner or mortgagee shall have notified the
22 municipality or authority or its subsidiary, as appropriate, in writing
23 that the owner or mortgagee has elected to perform the remediation
24 itself. When the owner or mortgagee elects to perform the
25 remediation itself, it shall be required to post bond in favor of the
26 municipality or authority or its subsidiaries, as appropriate, in order to
27 ensure performance. The amount and conditions of the bond shall be
28 determined by the public officer.

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

42 c. (1) Failure of an owner or lienholder to remove a property from
43 the abandoned property list within [60 days after expiration of] the
44 period of time for appeal of inclusion of the property on the list
45 pursuant to subsection e. of section 36 of P.L.1996, c.62
46 (C.55:19-55), shall be prima facie evidence of the intent of the owner

1 to continue to maintain the property as abandoned property.

2 (2) The clearance, development, redevelopment, or repair of
3 property being maintained as an abandoned property pursuant to
4 paragraph (1) of this subsection shall be a public purpose and public
5 use for which the power of eminent domain may be exercised.

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

7

8 3. Section 4 of P.L.2003, c.210 (C.55:19-81) is amended to read
9 as follows:

10 4. Except as provided in section 6 of P.L.2003, c.210
11 (C.55:19-83), any property that has not been legally occupied for a
12 period of six months and which meets any one of the following
13 additional criteria may be deemed to be abandoned property upon a
14 determination by the public officer that:

15 a. The property is in need of rehabilitation in the reasonable
16 judgment of the public officer, and no rehabilitation has taken place
17 during that six-month period;

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

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

26 d. The property has been determined to be a nuisance by the public
27 officer in accordance with section 5 of P.L.2003, c.210 (C.55:19-82).

28 A property which contains both residential and non-residential
29 space may be considered abandoned pursuant to P.L.2003, c.210
30 (C.55:19-78 et al.) so long as two-thirds or more of the total net
31 square footage of the building was previously occupied as residential
32 space and none of the residential space is occupied at the time of the
33 determination of abandonment by the public officer pursuant to this
34 section.

35 (cf: P.L.2003, c.210, s.4)

36

37 4. Section 6 of P.L.2003, c.210 (C.55:19-83) is amended to read
38 as follows:

39 6. a. If an entity other than the municipality has purchased or
40 taken assignment from the municipality of a tax sale certificate on an
41 unoccupied property, that property shall not be deemed to be
42 abandoned if (1) the owner of the certificate has continued to pay all
43 municipal taxes and liens on the property in the tax year when due; and
44 (2) the owner of the certificate takes action to initiate foreclosure
45 proceedings within six months after the property is eligible for
46 foreclosure and diligently pursues foreclosure proceedings in a timely

1 fashion thereafter.

2 b. A property which is used on a seasonal basis shall be deemed to
3 be abandoned only if the property meets any two of the additional
4 criteria set forth in section 4 of P.L.2003, c.210 (C.55:19-81).

5 c. A determination that a property is abandoned property under the
6 provisions of P.L.2003, c.210 (C.55:19-78 et al.) shall not constitute
7 a finding that the use of the property has been abandoned for purposes
8 of municipal zoning or land use regulation.

9 d. Upon the request of a purchaser or assignee of a tax sale
10 certificate seeking to bar the right of redemption on an abandoned
11 property pursuant to subsection b. of R.S.54:5-86, the public officer
12 or the tax collector shall, in a timely fashion, provide the requester
13 with a certification that the property fulfills the definition of
14 abandoned according to the criteria set forth in sections 4 and 5 of
15 P.L.2003, c.210 (C.55:19-81 and C.55:19-82). This certification shall
16 be deemed conclusive for the purposes of any action taken under
17 subsection b. of R.S.54:5-86.

18 (cf: P.L.2003, c.210, s.6)

19

20 5. Section 9 of P.L.2003, c.210 (C.55:19-86) is amended to read
21 as follows:

22 9. a. Within 10 days of filing a complaint pursuant to P.L.2003,
23 c.210 (C.55:19-78 et al.), the plaintiff shall file a notice of lis pendens
24 with the county recording officer of the county within which the
25 building is located.

26 b. At least 30 days before filing the complaint, the municipality
27 shall serve a notice of intention to take possession of an abandoned
28 building. The notice shall inform the owner and interested parties that
29 the property has not been legally occupied for six months and of those
30 criteria that led to a determination of abandonment pursuant to section
31 4 of P.L.2003, c.210 (C.55:19-81).

32 The notice shall provide that unless the owner or a party in interest
33 prepares and submits a rehabilitation plan to the appropriate municipal
34 officials, the municipality will seek to gain possession of the building
35 to rehabilitate the property and the associated cost shall be a lien
36 against the property, which may be satisfied by the sale of the
37 property, unless the owner applies to the court for reinstatement of
38 control of the property as provided in section 15 of P.L.2003, c.210
39 (C.55:19-92).

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

42 c. After serving the notice of intent pursuant to subsection b. of
43 this section, the municipality or its designee may enter upon that
44 property after written notice to the owner by certified mail, return
45 receipt requested, in order to secure, stabilize or repair the property,
46 or in order to inspect the property for purposes of preparing the plan

1 to be submitted to the court pursuant to section 12 of P.L.2003, c.210
2 (C.55:19-89).

3 (cf: P.L.2003, c.210, s.9)

4

5 6. Section 10 of P.L.2003, c.210 (C.55:19-87) is amended to read
6 as follows:

7 10. a. Any owner may defend against a complaint filed pursuant
8 to section 7 of P.L.2003, c.210 (C.55:19-84) by submitting a plan for
9 the rehabilitation and reuse of the property which is the subject of the
10 complaint and by posting a bond equal to 125 percent of the amount
11 determined by the public officer or the court to be the projected cost
12 of rehabilitation.

13 Any plan submitted by an owner to defend against a complaint shall
14 be submitted within 60 days after the complaint has been filed, unless
15 the court provides the owner with an extension of time for good cause
16 shown.

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

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

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

25 (3) A timetable for the completion of rehabilitation and reuse of the
26 property, including milestones for performance of major steps leading
27 to and encompassing the rehabilitation and reuse of the property; and

28 (4) Documentation of the qualifications of the individuals and firms
29 that will be engaged to carry out the planning, design, financial
30 packaging, construction, and marketing or rental of the property.

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

34 (2) If the court approves the owner's plan, then it may appoint the
35 public officer to act as monitor of the owner's compliance. If the
36 owner fails to carry out any step in the approved plan, then the
37 municipality may apply to the court to have the owner's bond forfeited,
38 possession of the building transferred to the municipality to complete
39 the rehabilitation plan and authorization to use the bond proceeds for
40 rehabilitation of the property.

41 (3) The owner shall provide quarterly reports to the municipality
42 on its activities and progress toward rehabilitation and reuse of the
43 property. The owner shall provide those reports to the court on its
44 activities that the court determines are necessary.

45 d. The court may reject a plan and bond if it finds that the plan
46 does not represent a realistic and expeditious means of ensuring the

1 rehabilitation of the property or that the owner or his representatives
2 or agents, or both, lack the qualifications, background or other criteria
3 necessary to ensure that the plan will be carried out successfully.
4 (cf: P.L.2003, c.210, s.10)

5
6 7. Section 11 of P.L.2003, c.210 (C.55:19-88) is amended to read
7 as follows:

8 11. a. If an owner is unsuccessful in defending against a complaint
9 filed pursuant to section 7 of P.L.2003, c.210 (C.55:19-84), the
10 mortgage holder or lien holder may seek to be designated in
11 possession of the property by submitting a plan and posting a bond
12 meeting the same conditions as set forth in section 10 of P.L.2003,
13 c.210 (C.55:19-87). The plan shall be submitted within 45 days after
14 the court has rejected the owner's plan, unless the court provides the
15 mortgage holder or lienholder with an extension of time for good
16 cause shown. If the court approves any such mortgage holder or lien
17 holder's plan, it shall designate that party to be in possession of the
18 property for purposes of ensuring its rehabilitation and reuse and may
19 appoint the public officer to act as monitor of the party's compliance.

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

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

28 b. Any sums incurred or advanced for the purpose of rehabilitating
29 the property by a mortgage holder or lien holder granted possession
30 of a property pursuant to subsection a. of this section, including court
31 costs and reasonable attorney's fees, may be added to the unpaid
32 balance due that mortgage holder or lien holder, with interest
33 calculated at the same rate set forth in the note or security agreement;
34 or, in the case of a tax lien holder, at the statutory interest rate for
35 subsequent liens.

36 (cf: P.L.2003, c.210, s.11)

37
38 8. Section 23 of P.L.2003, c.210 (C.55:19-100) is amended to read
39 as follows:

40 23. With respect to any lien placed against any real property
41 pursuant to the provisions of section 1 or section 3 of P.L.1942, c.112
42 (C.40:48-2.3 or C.40:48-2.5) or section 1 of P.L.1989, c.91
43 (C.40:48-2.3a) or any receiver's lien pursuant to P.L.2003, c.295
44 (C.2A:42-114 et al.), the municipality shall have recourse with respect
45 to the lien against any asset of the owner of the property if an
46 individual, against any asset of any partner if a partnership, and against

1 any asset of any owner of a 10% interest or greater if [a corporation]
2 the owner is any other business organization or entity recognized
3 pursuant to law.

4 (cf: P.L.2003, c.210, s.23)

5
6 9. Section 24 of P.L.2003, c.210 (C.55:19-101) is amended to read
7 as follows:

8 24. Municipalities may hold special tax sales with respect to those
9 properties eligible for tax sale pursuant to R.S.54:5-19 which are also
10 on an abandoned property list established by the municipality pursuant
11 to section 36 of P.L.1996, c.62 (C.55:19-55). Municipalities electing
12 to hold a special tax sale shall conduct that sale subject to the
13 following provisions:

14 a. The municipality shall establish criteria for eligibility to bid on
15 properties at the sale, which may include, but shall not be limited to:
16 documentation of the bidder's ability to rehabilitate or otherwise reuse
17 the property consistent with municipal plans and regulations;
18 commitments by the bidder to rehabilitate or otherwise reuse the
19 property, consistent with municipal plans and regulations;
20 commitments by the bidder to take action to foreclose on the tax lien
21 by a date certain; and such other criteria as the municipality may
22 determine are necessary 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 b. The municipality may establish minimum bid requirements
26 [consistent with the provisions of subsection b. of section 1 of
27 P.L.1941, c.232 (C.54:5-114.1)] for a special tax sale that may be less
28 than the full amount of the taxes, interest and penalties due, the
29 amount of such minimum bid to be at the sole discretion of the
30 municipality, in order to ensure that the properties to be sold will be
31 rehabilitated or otherwise reused in a manner consistent with the
32 public interest;

33 c. The municipality may combine properties into bid packages, and
34 require that bidders place a single bid on each package, and reject any
35 and all bids on individual properties that have been included in bid
36 packages;

37 d. The municipality may sell properties subject to provisions that,
38 if the purchaser fails to carry out any commitment that has been set
39 forth as a condition of sale pursuant to subsection a. of this section or
40 misrepresents any material qualification that has been established as a
41 condition of eligibility to bid pursuant thereto, then the properties and
42 any interest thereto acquired by the purchaser shall revert to the
43 municipality, and any amount paid by the purchaser to the municipality
44 at the special tax sale shall be forfeit to the municipality;

45 e. In the event there are two or more qualified bidders for any
46 property or bid package in a special tax sale, the municipality may

1 designate the unsuccessful but qualified bidder whose bid was closest
2 to the successful bid as an eligible purchaser;

3 f. In the event that the purchaser of that property or bid package
4 fails to meet any of the conditions of sale established by the
5 municipality pursuant to this section, and their interest in the property
6 or properties reverts to the municipality, the municipality may
7 subsequently designate the entity previously designated as an eligible
8 purchaser as the winning bidder for the property or properties, and
9 assign the tax sale certificates to that entity on the basis of that entity's
10 bid at the special tax sale, subject to the terms and conditions of the
11 special tax sale.

12 g. The municipality shall provide notice of a special tax sale
13 pursuant to R.S.54:5-26. The notice shall include any special terms of
14 sale established by the municipality pursuant to subsections b., c. or d.
15 of this section. Nothing shall prohibit the municipality from holding a
16 special tax sale on the same day as a standard or accelerated tax sale.
17 (cf: P.L.2003, c.210, s.24)

18

19 10. R.S.54:5-26 is amended to read as follows:

20 54:5-26. Copies of the notice of a tax sale shall be set up in five of
21 the most public places in the municipality, and a copy of the notice
22 shall be published in a newspaper circulating in the municipality, once
23 in each of the four calendar weeks preceding the calendar week
24 containing the day appointed for the sale. In lieu of any two
25 publications, notice to the property owner and to any person or entity
26 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,
27 c.96 (C.54:5-104.48) may be given by regular or certified mail, the
28 costs of which shall be added to the cost of the sale in addition to
29 those provided in R.S.54:5-38, not to exceed \$25 for each set of
30 notices for a particular property.

31 For the purposes of notice in connection with a special tax sale for
32 eligible properties which are on an abandoned property list established
33 by the municipality pursuant to section 36 of P.L.1996, c.62 (C.55:19-
34 55), a single advertisement published in a newspaper circulating in the
35 municipality no less than four and no more than six weeks prior to the
36 sale, along with notice to the property owner and any person or entity
37 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,
38 c.96 (C.54:5-104.48), shall constitute sufficient notice of sale on the
39 part of the municipality.

40 Failure of the property owner to receive a notice of a tax sale
41 properly mailed by the tax collector shall not constitute grounds to
42 void the subsequent tax sale. If ordinances of the municipality are
43 required to be published in any special newspaper or newspapers, the
44 notice shall be published therein.

45 (cf: P.L.1997, c.99, s.6)

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

2 54:5-86. a. When the municipality is the purchaser of a tax sale
3 certificate, the municipality, or its assignee or transferee, may, at any
4 time after the expiration of the term of six months from the date of
5 sale, institute an action to foreclose the right of redemption. Except
6 as provided in subsection a. of section 39 of P.L.1996, c.62
7 (C.55:19-58) or as provided in subsection b. of this section, for all
8 other persons that do not acquire a tax sale certificate from a
9 municipality, an action to foreclose the right of redemption may be
10 instituted at any time after the expiration of the term of two years from
11 the date of sale of the tax sale certificate. On instituting the action the
12 right to redeem shall exist and continue until barred by the judgment
13 of the Superior Court.

14 b. Any person holding a tax sale certificate on a property that
15 meets the definition of abandoned property as set forth in P.L.2003,
16 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
17 thereafter, may at any time file an action with the Superior Court in
18 the county wherein said municipality is situate, demanding that the
19 right of redemption on such property be barred, pursuant to
20 [R.S.54:5-77] the "tax sale law," R.S.54:5-1 et seq. The filing shall
21 include a certification by the public officer or the tax collector that the
22 property is abandoned, provided pursuant to subsection d. of section
23 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate
24 holder has unsuccessfully sought such certification from the public
25 officer or tax collector, as the case may be, the certificate holder may
26 submit to the court evidence that the property is abandoned,
27 accompanied by a report and sworn statement by an individual holding
28 appropriate licensure or professional qualifications, and shall provide
29 a copy of those documents submitted to the court to the public officer
30 and the tax collector. On the basis of this submission and any
31 submission provided by the public officer or tax collector, as the case
32 may be, the court shall determine whether the property meets the
33 definition of abandoned property.

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

42 d. Any sums incurred or advanced pursuant to subsection c. of this
43 section may be added to the unpaid balance due the holder of the tax
44 sale certificate at the statutory interest rate for subsequent liens.
45 (cf: P.L.2003, c.210, s.32)

1 12. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill amends the "Abandoned Properties Rehabilitation Act,"
7 P.L.2003, c.210 (C.55:19-78 et al.), to clarify certain provisions or
8 correct technical defects identified since its enactment which adversely
9 affect the ability of municipalities and others seeking to operate under
10 its provisions.

11 Specifically, the bill would:

12 *clarify the status and obligations of the purchaser or assignee of
13 a tax sale certificate for an unoccupied property;

14 *clarify that the definition of abandoned property shall include
15 certain mixed-use properties based on the proportion of the property
16 that is used for residential purposes;

17 *clarify that municipal officials shall have the right of entry in
18 situations in which a municipality has served notice of its intent to seek
19 an order of possession with respect to an abandoned property;

20 *set time limits for responses to complaints filed by a municipality
21 in connection with orders of possession;

22 *clarify that a receiver's lien shall be covered by the recourse
23 provisions available to a municipality under section 23 of P.L.2003,
24 c.210 (C.55:19-100) and that those provisions shall extend to any
25 owner of a 10 percent interest or greater, regardless of whether the
26 owner is a corporation or other business organization;

27 *provide that in connection with a special tax sale of an abandoned
28 property, a single advertisement no less than four and no more than six
29 weeks prior to the sale in a newspaper in circulation in the
30 municipality, along with appropriate notice to the property owner or
31 others entitled to notice under existing law, shall constitute sufficient
32 notice of sale;

33 *clarify that language defining the notice and publication that
34 constitute establishment of an abandoned property list;

35 *correct technical inconsistencies between P.L.2003, c.210 and the
36 "tax sale law, R.S.54:5-19 et seq;

37 *correct an inconsistency between the tax sale language in
38 P.L.2003, c.210 and that of the "New Jersey Urban Redevelopment
39 Act," (C.55:19-20 et al.);

40 *clarify the procedure by which the purchaser or assignee of a tax
41 sale certificate on an abandoned property may provide documentation
42 of the status of property for the purposes of a foreclosure action;

43 *correct an inconsistency between the provisions governing the
44 effectiveness of an abandoned property list following the expiration of
45 the right of appeal in P.L.2003, c.210 and that of the "New Jersey
46 Urban Redevelopment Act," (C.55:19-20 et al.).

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3673

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2005

The Assembly Housing and Local Government Committee reports favorably with committee amendments Assembly Bill No. 3673.

This bill, as amended, amends the "Abandoned Properties Rehabilitation Act," P.L.2003, c.210 (C.55:19-78 et al.), to clarify certain provisions or correct technical defects identified since its enactment which adversely affect the ability of municipalities and others seeking to operate under its provisions.

Specifically, the bill would:

*clarify the status and obligations of the purchaser or assignee of a tax sale certificate for an unoccupied property;

*clarify that the definition of abandoned property shall include certain mixed-use properties based on the proportion of the property that is used for residential purposes;

*clarify that municipal officials shall have the right of entry in situations in which a municipality has served notice of its intent to seek an order of possession with respect to an abandoned property;

*set time limits for responses to complaints filed by a municipality in connection with orders of possession;

*clarify that a receiver's lien shall be covered by the recourse provisions available to a municipality under section 23 of P.L.2003, c.210 (C.55:19-100) and that those provisions shall extend to any owner of a 10 percent interest or greater, regardless of whether the owner is a corporation or other business organization;

*provide that in connection with a special tax sale of an abandoned property, a single advertisement no less than four and no more than six weeks prior to the sale in a newspaper in circulation in the municipality, along with appropriate notice to the property owner or others entitled to notice under existing law, shall constitute sufficient notice of sale;

*clarify that language defining the notice and publication that constitute establishment of an abandoned property list;

*correct technical inconsistencies between P.L.2003, c.210 and the "tax sale law, R.S.54:5-19 et seq;

*correct an inconsistency between the tax sale language in P.L.2003, c.210 and that of the "New Jersey Urban Redevelopment Act," (C.55:19-20 et al.);

*clarify the procedure by which the purchaser or assignee of a tax sale certificate on an abandoned property may provide documentation of the status of property for the purposes of a foreclosure action;

*correct an inconsistency between the provisions governing the effectiveness of an abandoned property list following the expiration of the right of appeal in P.L.2003, c.210 and that of the "New Jersey Urban Redevelopment Act," (C.55:19-20 et al.)

Committee amendments

The committee amended the bill to further clarify when mixed use property may be considered abandoned under the law. The amendments extend the time period from 45 to 60 days for a mortgagee or lien holder to seek to be designated in possession of abandoned property. The amendments also amend the definition of "public officer" to include a person designated in possession of abandoned property, which matches the definition of that term under the "Multifamily Housing Preservation and Receivership Act," P.L.2003, c.295 (C:2A:42-114 et al.)

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3673

with Senate Floor Amendments
(Proposed By Senator RICE)

ADOPTED: MARCH 21, 2005

These floor amendments make a change to the language of section 6 of P.L.2003, c.210 (C.55:19-83) to resolve an inconsistency with a provision of tax foreclosure law, subsection b. of R.S.54:5-86, concerning accelerated foreclosure of a property owner's right of redemption by the holder of a tax lien when a property meets the definition of an abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.). The inconsistency between the two statutes, as to whether a property is deemed abandoned or not, would be resolved by essentially stating that a property shall not be placed on the abandoned property list, even though it meets the definition of an abandoned property, when the holder of a tax lien files for foreclosure under either subsection a. ("normal" foreclosure) or subsection b. (accelerated foreclosure) of R.S.54:5-86.

As amended, Assembly, No. 3673 (1R) is identical to Senate, No. 2243 (1R).

SENATE, No. 2243

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 24, 2005

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Makes various technical corrections and modifications to the "Abandoned Properties Rehabilitation Act," P.L.2003, c.210.

CURRENT VERSION OF TEXT

As introduced.



S2243 RICE

2

1 AN ACT concerning abandoned property and amending P.L.1996,
2 c.62, P.L.2003, c.210, and various sections of chapter 5 of Title 54
3 of the Revised Statutes.

4

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

7

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

10 36. a. A qualified municipality that has designated or appointed a
11 public officer pursuant to section 3 of P.L.1942, c.112 (C.40:48-2.5),
12 may adopt an ordinance directing the public officer to identify
13 abandoned property for the purpose of establishing an abandoned
14 property list throughout the municipality, or within those parts of the
15 municipality as the governing body may designate **[by resolution]**.
16 Each item of abandoned property so identified shall include the tax
17 block and lot number, the name of the owner of record, if known, and
18 the street address of the lot.

19 b. In those municipalities in which abandoned properties have been
20 identified in accordance with subsection a. of this section, the public
21 officer shall establish and maintain a list of abandoned property, to be
22 known as the "abandoned property list." The municipality may add
23 properties to the abandoned property list at any time, and may delete
24 properties at any time when the public officer finds that the property
25 no longer meets the definition of an abandoned property. An
26 interested party may request that a property be included on the
27 abandoned property list following that procedure set forth in section
28 31 of P.L.2003, c.210 (C.55:19-105).

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

38 c. The Department of Community Affairs in conjunction with the
39 Department of Environmental Protection shall prepare an information
40 bulletin for distribution to every municipality describing the authority
41 of a municipality under existing statutes and regulations to repair,
42 demolish or otherwise deal with abandoned property.

43 d. (1) The public officer**[**, within 10 days of the establishment of

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

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

37 e. An owner or lienholder may challenge the inclusion of his
38 property on the abandoned property list determined pursuant to
39 subsection b. of this section by appealing that determination to the
40 public officer within 30 days of the owner's receipt of the certified
41 notice or 40 days from the date upon which the notice was sent. An
42 owner whose identity was not known to the public officer shall have
43 40 days from the date upon which notice was published or posted,
44 whichever is later, to challenge the inclusion of a property on the
45 abandoned property list. For good cause shown, the public officer
46 shall accept a late filing of an appeal. Within 30 days of receipt of a

S2243 RICE

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

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

31 g. The public officer shall promptly remove any property from the
32 abandoned property list that has been determined not to be abandoned
33 on appeal.

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

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

42

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

45 37. a. Notwithstanding R.S.54:5-19 or the provisions of any other
46 law to the contrary, if a property is included on the abandoned

1 property list and the property taxes or other municipal liens due on the
2 property are delinquent six or more quarters as of the date of
3 expiration of the right to appeal inclusion on the list, or, if an appeal
4 has been filed, as of the date that all opportunities for appeal of
5 inclusion on the list have been exhausted, then the tax lien on the
6 property may be sold in accordance with the procedures in the "tax
7 sale law," R.S.54:5-1 et seq., on or after the 90th day following the
8 expiration of that time of appeal or final determination on an appeal,
9 as appropriate. [The purchaser of a tax sale certificate sold pursuant
10 to this subsection, unless it is the municipality or the authority or its
11 subsidiaries, shall be required to post bond to guarantee the
12 rehabilitation of the property in accordance with the requirements for
13 an owner to remove the property from the abandoned property list
14 pursuant to section 36 of P.L.1996, c.62 (C.55:19-55). The cost of
15 the bond posted by the purchaser of the tax sale certificate shall be
16 added to the amount required to be paid by the owner for redemption
17 of the property.] The municipality may, at its option, require that the
18 sale of the tax sale certificate or any subsequent assignment or transfer
19 of a tax sale certificate held by the municipality be subject to the
20 express condition that the purchaser or assignee shall be obliged to
21 perform and conclude any rehabilitation or repairs necessary to remove
22 the property from the abandoned property list pursuant to section 36
23 of P.L.1996, c.62 (C.55:19-55) and to post a bond in favor of the
24 municipality to guarantee the rehabilitation or repair of the property.
25 The public officer may waive a requirement to post a bond imposed by
26 a municipality for any purchaser, assignee or transferee of a tax sale
27 certificate that provides documentation acceptable to the public officer
28 that the purchaser, assignee or transferee is a qualified rehabilitation
29 entity as defined in section 3 of P.L.2003, c.210 (C.55:19-80). The
30 cost of rehabilitation and repairs and the cost of the bond shall be
31 added to the amount required to be paid by the owner for redemption
32 of the property. The purchaser, assignee or transferee of the tax sale
33 certificate who is required to rehabilitate and repair the property shall
34 be required to file the appropriate affidavits with the tax collector,
35 pursuant to R.S.54:5-62, representing the amounts of moneys
36 expended periodically toward the rehabilitation or repair of the
37 property. A purchaser, assignee or transferee shall be entitled to
38 interest on the amounts expended, as set forth in the affidavits, at the
39 delinquent rate of interest for delinquencies in excess of \$1,500
40 pursuant to R.S.54:4-67 of the municipality in effect for the time
41 period when the amounts were expended. The tax sale certificate
42 purchaser, assignee or transferee, under the auspices and with the
43 authority of the municipality, shall be permitted to enter in and upon
44 the property for the purposes of appraising the costs of rehabilitation
45 and repair and to perform all other acts required to guarantee the
46 completion of the rehabilitation or repair of the property. No

1 rehabilitation or repair work shall be commenced, however, until proof
2 of adequate liability insurance and an indemnification agreement
3 holding the municipality harmless is filed with the public officer. If
4 the tax sale certificate is not purchased at the initial auction of the tax
5 sale certificate and the municipality purchases the certificate pursuant
6 to R.S.54:5-34, then the municipality is authorized and empowered to
7 convey and transfer to the authority or any of its subsidiaries, without
8 receiving compensation therefor, all of its right, title and interest in
9 that certificate; however, any portion of the amount paid to the tax
10 collector to redeem the tax sale certificate that represents tax or other
11 municipal lien delinquencies and subsequent municipal liens, including
12 interest, shall be returned by the tax collector to the municipality.

13 b. (1) If the municipality or the authority or its subsidiaries
14 acquires the tax sale certificate for a property on the abandoned
15 property list, then, upon 10 days' written notice to the property owner
16 and any mortgagee as of the date of the filing of the lis pendens notice
17 under subsection d. of section 36 of P.L.1996, c.62 (C.55:19-55), that
18 entity shall be permitted to enter upon the property and remediate any
19 conditions that caused the property to be included on the abandoned
20 property list. No remediation shall be commenced, however, if within
21 that 10-day period the owner or mortgagee shall have notified the
22 municipality or authority or its subsidiary, as appropriate, in writing
23 that the owner or mortgagee has elected to perform the remediation
24 itself. When the owner or mortgagee elects to perform the
25 remediation itself, it shall be required to post bond in favor of the
26 municipality or authority or its subsidiaries, as appropriate, in order to
27 ensure performance. The amount and conditions of the bond shall be
28 determined by the public officer.

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

42 c. (1) Failure of an owner or lienholder to remove a property from
43 the abandoned property list within [60 days after expiration of] the
44 period of time for appeal of inclusion of the property on the list
45 pursuant to subsection e. of section 36 of P.L.1996, c.62
46 (C.55:19-55), shall be prima facie evidence of the intent of the owner

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1 to continue to maintain the property as abandoned property.

2 (2) The clearance, development, redevelopment, or repair of
3 property being maintained as an abandoned property pursuant to
4 paragraph (1) of this subsection shall be a public purpose and public
5 use for which the power of eminent domain may be exercised.

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

7

8 3. Section 4 of P.L.2003, c.210 (C.55:19-81) is amended to read
9 as follows:

10 4. Except as provided in section 6 of P.L.2003, c.210
11 (C.55:19-83), any property that has not been legally occupied for a
12 period of six months and which meets any one of the following
13 additional criteria may be deemed to be abandoned property upon a
14 determination by the public officer that:

15 a. The property is in need of rehabilitation in the reasonable
16 judgment of the public officer, and no rehabilitation has taken place
17 during that six-month period;

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

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

26 d. The property has been determined to be a nuisance by the public
27 officer in accordance with section 5 of P.L.2003, c.210 (C.55:19-82).

28 A property which contains both residential and non-residential
29 space may be considered abandoned pursuant to P.L.2003, c.210
30 (C.55:19-78 et al.) so long as two-thirds or more of the total net
31 square footage of the building was previously occupied as residential
32 space and none of the residential space is occupied at the time of the
33 determination of abandonment by the public officer pursuant to this
34 section.

35 (cf: P.L.2003, c.210, s.4)

36

37 4. Section 6 of P.L.2003, c.210 (C.55:19-83) is amended to read
38 as follows:

39 6. a. If an entity other than the municipality has purchased or
40 taken assignment from the municipality of a tax sale certificate on an
41 unoccupied property, that property shall not be deemed to be
42 abandoned if (1) the owner of the certificate has continued to pay all
43 municipal taxes and liens on the property in the tax year when due; and
44 (2) the owner of the certificate takes action to initiate foreclosure
45 proceedings within six months after the property is eligible for
46 foreclosure and diligently pursues foreclosure proceedings in a timely

1 fashion thereafter.

2 b. A property which is used on a seasonal basis shall be deemed to
3 be abandoned only if the property meets any two of the additional
4 criteria set forth in section 4 of P.L.2003, c.210 (C.55:19-81).

5 c. A determination that a property is abandoned property under the
6 provisions of P.L.2003, c.210 (C.55:19-78 et al.) shall not constitute
7 a finding that the use of the property has been abandoned for purposes
8 of municipal zoning or land use regulation.

9 d. Upon the request of a purchaser or assignee of a tax sale
10 certificate seeking to bar the right of redemption on an abandoned
11 property pursuant to subsection b. of R.S.54:5-86, the public officer
12 or the tax collector shall, in a timely fashion, provide the requester
13 with a certification that the property fulfills the definition of
14 abandoned according to the criteria set forth in sections 4 and 5 of
15 P.L.2003, c.210 (C.55:19-81 and C.55:19-82). This certification shall
16 be deemed conclusive for the purposes of any action taken under
17 subsection b. of R.S.54:5-86.

18 (cf: P.L.2003, c.210, s.6)

19

20 5. Section 9 of P.L.2003, c.210 (C.55:19-86) is amended to read
21 as follows:

22 9. a. Within 10 days of filing a complaint pursuant to P.L.2003,
23 c.210 (C.55:19-78 et al.), the plaintiff shall file a notice of lis pendens
24 with the county recording officer of the county within which the
25 building is located.

26 b. At least 30 days before filing the complaint, the municipality
27 shall serve a notice of intention to take possession of an abandoned
28 building. The notice shall inform the owner and interested parties that
29 the property has not been legally occupied for six months and of those
30 criteria that led to a determination of abandonment pursuant to section
31 4 of P.L.2003, c.210 (C.55:19-81).

32 The notice shall provide that unless the owner or a party in interest
33 prepares and submits a rehabilitation plan to the appropriate municipal
34 officials, the municipality will seek to gain possession of the building
35 to rehabilitate the property and the associated cost shall be a lien
36 against the property, which may be satisfied by the sale of the
37 property, unless the owner applies to the court for reinstatement of
38 control of the property as provided in section 15 of P.L.2003, c.210
39 (C.55:19-92).

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

42 c. After serving the notice of intent pursuant to subsection b. of
43 this section, the municipality or its designee may enter upon that
44 property after written notice to the owner by certified mail, return
45 receipt requested, in order to secure, stabilize or repair the property,
46 or in order to inspect the property for purposes of preparing the plan

1 to be submitted to the court pursuant to section 12 of P.L.2003, c.210
2 (C.55:19-89).

3 (cf: P.L.2003, c.210, s.9)

4

5 6. Section 10 of P.L.2003, c.210 (C.55:19-87) is amended to read
6 as follows:

7 10. a. Any owner may defend against a complaint filed pursuant
8 to section 7 of P.L.2003, c.210 (C.55:19-84) by submitting a plan for
9 the rehabilitation and reuse of the property which is the subject of the
10 complaint and by posting a bond equal to 125 percent of the amount
11 determined by the public officer or the court to be the projected cost
12 of rehabilitation.

13 Any plan submitted by an owner to defend against a complaint shall
14 be submitted within 60 days after the complaint has been filed, unless
15 the court provides the owner with an extension of time for good cause
16 shown.

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

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

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

25 (3) A timetable for the completion of rehabilitation and reuse of the
26 property, including milestones for performance of major steps leading
27 to and encompassing the rehabilitation and reuse of the property; and

28 (4) Documentation of the qualifications of the individuals and firms
29 that will be engaged to carry out the planning, design, financial
30 packaging, construction, and marketing or rental of the property.

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

34 (2) If the court approves the owner's plan, then it may appoint the
35 public officer to act as monitor of the owner's compliance. If the
36 owner fails to carry out any step in the approved plan, then the
37 municipality may apply to the court to have the owner's bond forfeited,
38 possession of the building transferred to the municipality to complete
39 the rehabilitation plan and authorization to use the bond proceeds for
40 rehabilitation of the property.

41 (3) The owner shall provide quarterly reports to the municipality
42 on its activities and progress toward rehabilitation and reuse of the
43 property. The owner shall provide those reports to the court on its
44 activities that the court determines are necessary.

45 d. The court may reject a plan and bond if it finds that the plan
46 does not represent a realistic and expeditious means of ensuring the

1 rehabilitation of the property or that the owner or his representatives
2 or agents, or both, lack the qualifications, background or other criteria
3 necessary to ensure that the plan will be carried out successfully.
4 (cf: P.L.2003, c.210, s.10)

5
6 7. Section 11 of P.L.2003, c.210 (C.55:19-88) is amended to read
7 as follows:

8 11. a. If an owner is unsuccessful in defending against a complaint
9 filed pursuant to section 7 of P.L.2003, c.210 (C.55:19-84), the
10 mortgage holder or lien holder may seek to be designated in
11 possession of the property by submitting a plan and posting a bond
12 meeting the same conditions as set forth in section 10 of P.L.2003,
13 c.210 (C.55:19-87). The plan shall be submitted within 45 days after
14 the court has rejected the owner's plan, unless the court provides the
15 mortgage holder or lienholder with an extension of time for good
16 cause shown. If the court approves any such mortgage holder or lien
17 holder's plan, it shall designate that party to be in possession of the
18 property for purposes of ensuring its rehabilitation and reuse and may
19 appoint the public officer to act as monitor of the party's compliance.

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

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

28 b. Any sums incurred or advanced for the purpose of rehabilitating
29 the property by a mortgage holder or lien holder granted possession
30 of a property pursuant to subsection a. of this section, including court
31 costs and reasonable attorney's fees, may be added to the unpaid
32 balance due that mortgage holder or lien holder, with interest
33 calculated at the same rate set forth in the note or security agreement;
34 or, in the case of a tax lien holder, at the statutory interest rate for
35 subsequent liens.

36 (cf: P.L.2003, c.210, s.11)

37
38 8. Section 23 of P.L.2003, c.210 (C.55:19-100) is amended to read
39 as follows:

40 23. With respect to any lien placed against any real property
41 pursuant to the provisions of section 1 or section 3 of P.L.1942, c.112
42 (C.40:48-2.3 or C.40:48-2.5) or section 1 of P.L.1989, c.91
43 (C.40:48-2.3a) or any receiver's lien pursuant to P.L.2003, c.295
44 (C.2A:42-114 et al.), the municipality shall have recourse with respect
45 to the lien against any asset of the owner of the property if an
46 individual, against any asset of any partner if a partnership, and against

1 any asset of any owner of a 10% interest or greater if [a corporation]
2 the owner is any other business organization or entity recognized
3 pursuant to law.

4 (cf: P.L.2003, c.210, s.23)

5
6 9. Section 24 of P.L.2003, c.210 (C.55:19-101) is amended to read
7 as follows:

8 24. Municipalities may hold special tax sales with respect to those
9 properties eligible for tax sale pursuant to R.S.54:5-19 which are also
10 on an abandoned property list established by the municipality pursuant
11 to section 36 of P.L.1996, c.62 (C.55:19-55). Municipalities electing
12 to hold a special tax sale shall conduct that sale subject to the
13 following provisions:

14 a. The municipality shall establish criteria for eligibility to bid on
15 properties at the sale, which may include, but shall not be limited to:
16 documentation of the bidder's ability to rehabilitate or otherwise reuse
17 the property consistent with municipal plans and regulations;
18 commitments by the bidder to rehabilitate or otherwise reuse the
19 property, consistent with municipal plans and regulations;
20 commitments by the bidder to take action to foreclose on the tax lien
21 by a date certain; and such other criteria as the municipality may
22 determine are necessary 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 b. The municipality may establish minimum bid requirements
26 [consistent with the provisions of subsection b. of section 1 of
27 P.L.1941, c.232 (C.54:5-114.1)] for a special tax sale that may be less
28 than the full amount of the taxes, interest and penalties due, the
29 amount of such minimum bid to be at the sole discretion of the
30 municipality, in order to ensure that the properties to be sold will be
31 rehabilitated or otherwise reused in a manner consistent with the
32 public interest;

33 c. The municipality may combine properties into bid packages, and
34 require that bidders place a single bid on each package, and reject any
35 and all bids on individual properties that have been included in bid
36 packages;

37 d. The municipality may sell properties subject to provisions that,
38 if the purchaser fails to carry out any commitment that has been set
39 forth as a condition of sale pursuant to subsection a. of this section or
40 misrepresents any material qualification that has been established as a
41 condition of eligibility to bid pursuant thereto, then the properties and
42 any interest thereto acquired by the purchaser shall revert to the
43 municipality, and any amount paid by the purchaser to the municipality
44 at the special tax sale shall be forfeit to the municipality;

45 e. In the event there are two or more qualified bidders for any
46 property or bid package in a special tax sale, the municipality may

1 designate the unsuccessful but qualified bidder whose bid was closest
2 to the successful bid as an eligible purchaser;

3 f. In the event that the purchaser of that property or bid package
4 fails to meet any of the conditions of sale established by the
5 municipality pursuant to this section, and their interest in the property
6 or properties reverts to the municipality, the municipality may
7 subsequently designate the entity previously designated as an eligible
8 purchaser as the winning bidder for the property or properties, and
9 assign the tax sale certificates to that entity on the basis of that entity's
10 bid at the special tax sale, subject to the terms and conditions of the
11 special tax sale.

12 g. The municipality shall provide notice of a special tax sale
13 pursuant to R.S.54:5-26. The notice shall include any special terms of
14 sale established by the municipality pursuant to subsections b., c. or d.
15 of this section. Nothing shall prohibit the municipality from holding a
16 special tax sale on the same day as a standard or accelerated tax sale.
17 (cf: P.L.2003, c.210, s.24)

18

19 10. R.S.54:5-26 is amended to read as follows:

20 54:5-26. Copies of the notice of a tax sale shall be set up in five of
21 the most public places in the municipality, and a copy of the notice
22 shall be published in a newspaper circulating in the municipality, once
23 in each of the four calendar weeks preceding the calendar week
24 containing the day appointed for the sale. In lieu of any two
25 publications, notice to the property owner and to any person or entity
26 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,
27 c.96 (C.54:5-104.48) may be given by regular or certified mail, the
28 costs of which shall be added to the cost of the sale in addition to
29 those provided in R.S.54:5-38, not to exceed \$25 for each set of
30 notices for a particular property.

31 For the purposes of notice in connection with a special tax sale for
32 eligible properties which are on an abandoned property list established
33 by the municipality pursuant to section 36 of P.L.1996, c.62 (C.55:19-
34 55), a single advertisement published in a newspaper circulating in the
35 municipality no less than four and no more than six weeks prior to the
36 sale, along with notice to the property owner and any person or entity
37 entitled to notice of foreclosure pursuant to section 20 of P.L.1948,
38 c.96 (C.54:5-104.48), shall constitute sufficient notice of sale on the
39 part of the municipality.

40 Failure of the property owner to receive a notice of a tax sale
41 properly mailed by the tax collector shall not constitute grounds to
42 void the subsequent tax sale. If ordinances of the municipality are
43 required to be published in any special newspaper or newspapers, the
44 notice shall be published therein.

45 (cf: P.L.1997, c.99, s.6)

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

2 54:5-86. a. When the municipality is the purchaser of a tax sale
3 certificate, the municipality, or its assignee or transferee, may, at any
4 time after the expiration of the term of six months from the date of
5 sale, institute an action to foreclose the right of redemption. Except
6 as provided in subsection a. of section 39 of P.L.1996, c.62
7 (C.55:19-58) or as provided in subsection b. of this section, for all
8 other persons that do not acquire a tax sale certificate from a
9 municipality, an action to foreclose the right of redemption may be
10 instituted at any time after the expiration of the term of two years from
11 the date of sale of the tax sale certificate. On instituting the action the
12 right to redeem shall exist and continue until barred by the judgment
13 of the Superior Court.

14 b. Any person holding a tax sale certificate on a property that
15 meets the definition of abandoned property as set forth in P.L.2003,
16 c.210 (C.55:19-78 et al.), either at the time of the tax sale or
17 thereafter, may at any time file an action with the Superior Court in
18 the county wherein said municipality is situate, demanding that the
19 right of redemption on such property be barred, pursuant to
20 [R.S.54:5-77] the "tax sale law," R.S.54:5-1 et seq. The filing shall
21 include a certification by the public officer or the tax collector that the
22 property is abandoned, provided pursuant to subsection d. of section
23 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate
24 holder has unsuccessfully sought such certification from the public
25 officer or tax collector, as the case may be, the certificate holder may
26 submit to the court evidence that the property is abandoned,
27 accompanied by a report and sworn statement by an individual holding
28 appropriate licensure or professional qualifications, and shall provide
29 a copy of those documents submitted to the court to the public officer
30 and the tax collector. On the basis of this submission and any
31 submission provided by the public officer or tax collector, as the case
32 may be, the court shall determine whether the property meets the
33 definition of abandoned property.

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

42 d. Any sums incurred or advanced pursuant to subsection c. of this
43 section may be added to the unpaid balance due the holder of the tax
44 sale certificate at the statutory interest rate for subsequent liens.
45 (cf: P.L.2003, c.210, s.32)

1 12. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill amends the "Abandoned Properties Rehabilitation Act,"
7 P.L.2003, c.210 (C.55:19-78 et al.), to clarify certain provisions or
8 correct technical defects identified since its enactment which adversely
9 affect the ability of municipalities and others seeking to operate under
10 its provisions.

11 Specifically, the bill would:

12 *clarify the status and obligations of the purchaser or assignee of
13 a tax sale certificate for an unoccupied property;

14 *clarify that the definition of abandoned property shall include
15 certain mixed-use properties based on the proportion of the property
16 that is used for residential purposes;

17 *clarify that municipal officials shall have the right of entry in
18 situations in which a municipality has served notice of its intent to seek
19 an order of possession with respect to an abandoned property;

20 *set time limits for responses to complaints filed by a municipality
21 in connection with orders of possession;

22 *clarify that a receiver's lien shall be covered by the recourse
23 provisions available to a municipality under section 23 of P.L.2003,
24 c.210 (C.55:19-100) and that those provisions shall extend to any
25 owner of a 10 percent interest or greater, regardless of whether the
26 owner is a corporation or other business organization;

27 *provide that in connection with a special tax sale of an abandoned
28 property, a single advertisement no less than four and no more than six
29 weeks prior to the sale in a newspaper in circulation in the
30 municipality, along with appropriate notice to the property owner or
31 others entitled to notice under existing law, shall constitute sufficient
32 notice of sale;

33 *clarify that language defining the notice and publication that
34 constitute establishment of an abandoned property list;

35 *correct technical inconsistencies between P.L.2003, c.210 and the
36 "tax sale law, R.S.54:5-19 et seq;

37 *correct an inconsistency between the tax sale language in
38 P.L.2003, c.210 and that of the "New Jersey Urban Redevelopment
39 Act," (C.55:19-20 et al.);

40 *clarify the procedure by which the purchaser or assignee of a tax
41 sale certificate on an abandoned property may provide documentation
42 of the status of property for the purposes of a foreclosure action;

43 *correct an inconsistency between the provisions governing the
44 effectiveness of an abandoned property list following the expiration of
45 the right of appeal in P.L.2003, c.210 and that of the "New Jersey
46 Urban Redevelopment Act," (C.55:19-20 et al.).

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2243

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2005

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2243.

This bill would clarify certain provisions of the "Abandoned Properties Rehabilitation Act," P.L.2003, c.210 (C.55:19-78 et al.), and related provisions of law in order to correct technical defects and make changes in order to enhance the ability of municipalities and others seeking to operate under that law's provisions.

Specifically, the bill would:

- *clarify the status and obligations of the purchaser or assignee of a tax sale certificate for an unoccupied property;

- *clarify that the definition of abandoned property includes certain mixed-use properties based on the proportion of the property that is used for residential purposes;

- *clarify that municipal officials have the right of entry in situations in which a municipality has served notice of its intent to seek an order of possession with respect to an abandoned property;

- *set time limits for responses to complaints filed by a municipality in connection with orders of possession;

- *clarify that a receiver's lien is covered by the recourse provisions available to a municipality under section 23 of P.L.2003, c.210 (C.55:19-100) and that those provisions extend to any owner of a 10 percent interest or greater, regardless of whether the owner is a corporation or other business organization;

- *provide that in connection with a special tax sale of an abandoned property, a single advertisement no less than four and no more than six weeks prior to the sale in a newspaper in circulation in the municipality, along with appropriate notice to the property owner or others entitled to notice under existing law, constitutes sufficient notice of sale;

- *clarify that language defining the notice and publication that constitute establishment of an abandoned property list;

- *correct technical inconsistencies between P.L.2003, c.210 and the "tax sale law," R.S.54:5-19 et seq.;

- *correct an inconsistency between the tax sale language in P.L.2003, c.210 and that of the "New Jersey Urban Redevelopment Act," P.L. 1996, c.62 (C.55:19-20 et al.);

*clarify the procedure by which the purchaser or assignee of a tax sale certificate on an abandoned property provide documentation of the status of property for the purposes of a foreclosure action;

*correct an inconsistency between the provisions governing the effectiveness of an abandoned property list following the expiration of the right of appeal in P.L.2003, c.210 and that of the "New Jersey Urban Redevelopment Act," P.L. 1996, c.62 (C.55:19-20 et al.).

STATEMENT TO
SENATE, No. 2243

with Senate Floor Amendments
(Proposed By Senator RICE)

ADOPTED: FEBRUARY 14, 2005

These floor amendments further clarify when mixed use property may be considered abandoned under the law. The amendments extend the time period from 45 to 60 days for a mortgagee or lien holder to seek to be designated in possession of abandoned property. The amendments also amend the definition of "public officer" to include a person designated in possession of abandoned property, which matches the definition of that term under the "Multifamily Housing Preservation and Receivership Act," P.L.2003, c.295 (C:2A:42-114 et al.). Finally, the amendments make a change to the language of section 6 of P.L.2003, c.210 (C.55:19-83) to resolve an inconsistency with a provision of tax foreclosure law, subsection b. of R.S.54:5-86, concerning accelerated foreclosure of a property owner's right of redemption by the holder of a tax lien when a property meets the definition of an abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.). The inconsistency between the two statutes, as to whether a property is deemed abandoned or not, would be resolved by essentially stating that a property shall not be placed on the abandoned property list, even though it meets the definition of an abandoned property, when the holder of a tax lien files for foreclosure under either subsection a. ("normal" foreclosure) or subsection b. (accelerated foreclosure) of R.S.54:5-86.