

CHAPTER 24

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

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

C.55:19-106 Findings, declarations relative to discontinuation of certain utility service from abandoned properties.

1. The Legislature finds and declares that:

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

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

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

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

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

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

C.55:19-80 Definitions relative to abandoned property.

3. As used in sections 1 through 25 of P.L.2003, c.210 (C.55:19-78 through C.55:19-102) and section 3 of P.L.2006, c.24 (C.55:19-107):

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

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

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

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

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

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

"Qualified rehabilitation entity" means an entity organized or authorized to do business

under the New Jersey statutes which shall have as one of its purposes the construction or rehabilitation of residential or non-residential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in P.L.2003, c.210 (C.55:19-78 et al.) to carry out the rehabilitation of vacant buildings in urban areas.

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

C.55:19-107 Access to abandoned property by utility, conditions.

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

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

C.55:19-55 Identification of abandoned property, listing.

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

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

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

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

d. (1) The public officer, shall establish the abandoned property list or any additions

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

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

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

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

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

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

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

5. This act shall take effect immediately.

Approved June 22, 2006.