

## CHAPTER 16

**AN ACT** authorizing persons to institute in rem tax foreclosure actions against abandoned properties and amending R.S.54:5-86, P.L.1948, c.96, and P.L.1955, c.278.

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

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

Action by municipality to foreclose right of redemption.

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

b. Any person holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may at any time file an action with the Superior Court in the county wherein said municipality is situate, demanding that the right of redemption on such property be barred, pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall include a certification by the public officer or the tax collector that the property is abandoned, provided pursuant to subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate holder has unsuccessfully sought such certification from the public officer or tax collector, as the case may be, the certificate holder may submit to the court evidence that the property is abandoned, accompanied by a report and sworn statement by an individual holding appropriate licensure or professional qualifications, and shall provide a copy of those documents submitted to the court to the public officer and the tax collector. On the basis of this submission and any submission provided by the public officer or tax collector, as the case may be, the court shall determine whether the property meets the definition of abandoned property.

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

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

2. Section 2 of P.L.1948, c.96 (C.54:5-104.30) is amended to read as follows:

C.54:5-104.30 Definitions.

2. When used in the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.):

(a) "Municipality" shall mean every taxing district having the power to assess and collect taxes.

(b) "Tax Collector" or "collector" shall mean the officer of the municipality charged by law with the duty of collecting general land taxes and the enforcement of tax liens.

(c) "County recording officer" shall mean the county officer in whose office deeds are recorded for the county in which the land affected by a proceeding under this act is located.

(d) "Land" or "lands" shall mean and include all real property.

(e) "Tax liens" shall mean all liens for general land taxes, and for all other municipal taxes which are liens on land, together with accrued interest, penalties and costs of collection thereon heretofore existing or hereafter arising pursuant to any law.

(f) "Tax lien title" shall mean the title derived from a sale according to law to satisfy any tax lien and evidenced by a tax sale certificate.

(g) "Person" or "persons" shall mean an individual, a corporation, an association, a municipal corporation, a body corporate and politic, a governing body of a municipality, or a governmental agency, and the singular may include the plural.

(h) "Abandoned property certificate holder" means a person authorized to file an action pursuant to subsection b. of R.S.54:5-86.

3. Section 3 of P.L.1948, c.96 (C.54:5-104.31) is amended to read as follows:

C.54:5-104.31 Construction as remedial legislation.

3. The In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.) shall be liberally construed as remedial legislation to encourage the barring of rights of redemption, and is an alternate and additional remedy to any other remedy provided by law, and shall apply to certificates of tax sales heretofore or hereafter issued and held by a municipality or an abandoned property certificate holder.

4. Section 4 of P.L.1948, c.96 (C.54:5-104.32) is amended to read as follows:

C.54:5-104.32 In rem proceedings.

4. Any municipality or abandoned property certificate holder may proceed, In Rem, pursuant to the provisions of the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), similarly to bar rights of redemption, after said certificate has been recorded in the office of the county recording officer. Neither the foreclosure nor the recording of any such judgment or certificate shall be construed to be a sale, transfer, or conveyance of title or interest to the subject property under the provisions of the "Uniform Fraudulent Transfer Act," R.S.25:2-20 et seq.

5. Section 6 of P.L.1948, c.96 (C.54:5-104.34) is amended to read as follows:

C.54:5-104.34 Time for institution of action.

6. No action may be instituted by a municipality under the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), on any tax sale certificate unless:

a. More than six months have expired from the date of the tax sale out of which any such certificate arose; and

b. All or any portion of the general land taxes levied and assessed against the land for 21 months next preceding the commencement of the action, other than those subject to payment by installments authorized by a resolution adopted pursuant to R.S.54:5-65, remains unpaid.

Such action on a tax sale certificate may include the lien for unpaid taxes, utility liens or any other municipal liens in conjunction with or independent of one another.

6. Section 1 of P.L.1955, c.278 (C.54:5-104.72) is amended to read as follows:

C.54:5-104.72 Irregularities in proceedings; instituting new proceedings.

1. Where

(a) any proceeding pursuant to the provisions of the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to which P.L.1955, c.278 (C.54:5-104.72 et seq.) is a supplement, or

(b) any other proceeding for the foreclosure of a right of redemption where the right could then have been, but was not, foreclosed in the manner provided by the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.) if that act had then been in effect,

has been heretofore or shall be hereafter instituted and judgment obtained, and after the entry of such judgment it is discovered that there were irregularities, or that there may have been irregularities, in the conduct of the proceedings, the municipality or abandoned property certificate holder that instituted the proceedings, may conduct a proceeding under the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), in the same manner and with the same effect as the first proceeding would have had if it had been regularly prosecuted to judgment under that act.

7. Section 2 of P.L.1955, c.278 (C.54:5-104.73) is amended to read as follows:

C.54:5-104.73 Right of purchaser to have prior foreclosure proceedings corrected.

2. Where a municipality or abandoned property certificate holder has heretofore sold and transferred, or shall hereafter sell and transfer, lands to a purchaser, title to which was acquired by the municipality or abandoned property certificate holder under a tax sale certificate and the foreclosure thereof, the said purchaser may request the municipality or abandoned property certificate holder to further foreclose or reforeclose such tax sale certificate under the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to which P.L.1955, c.278 (C.54:5-104.72 et seq.) is a supplement, for the purpose of correcting and overcoming any irregularity in the prior foreclosure proceedings, or to bar any outstanding right of redemption of the lands from the tax sale which resulted in the said tax sale certificate, which right of redemption could have been but was not barred by the said prior foreclosure proceedings.

8. Section 3 of P.L.1955, c.278 (C.54:5-104.74) is amended to read as follows:

C.54:5-104.74 Further foreclosure proceedings by municipality; title of purchaser not affected; contents of notice and complaint.

3. Notwithstanding the prior sale of the property by the municipality or abandoned property certificate holder, the municipality or abandoned property certificate holder in any case, as provided for in the preceding section, shall have the right to further so foreclose or reforeclose the tax sale certificates for the purpose of correcting or overcoming any irregularity in the prior foreclosure proceeding, or to bar any outstanding right of redemption of the lands from the tax sale which resulted in the said tax sale certificate, which right was not barred by the said prior foreclosure proceeding, but could have been, in the manner

provided by the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to which P.L.1955, c.278 (C.54:5-104.72 et seq.) is a supplement, if that act was then in effect; provided, however, that in any such foreclosure proceeding brought pursuant to section 2 of P.L.1955, c.278 (C.54:5-104.73) the judgment of foreclosure therein obtained shall not affect the right, title, and interest in said lands of the said purchaser from the municipality or abandoned property certificate holder or of any person deriving an interest therein from, through, or by any action of, the said purchaser, and the said judgment shall bar such outstanding interests as are foreclosed for the benefit of the said purchaser and the governing body of the municipality may by resolution or abandoned property certificate holder may as otherwise provided by law, as the case may be, authorize the giving to the said purchaser a confirmatory deed.

In every such further foreclosure, or reforeclosure proceeding, brought pursuant to the provisions of section 2 of P.L.1955, c.278 (C.54:5-104.73) or this section, the municipality or abandoned property certificate holder shall clearly set forth in the notice and in the complaint, that the proceeding is instituted pursuant to section 2 of P.L.1955, c.278 (C.54:5-104.73) or this section, and that the judgment to be obtained will specifically contain a provision giving full effect to the foregoing proviso and such judgment shall contain appropriate provisions to that effect.

9. This act shall take effect immediately.

Approved February 5, 2015.