

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2921

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 7, 2013

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2921.

As amended by the committee, this bill would require the responsible party for a vacant and abandoned property to register such property with the municipality in which the property is located, and would provide enforcement tools to help ensure that these properties are properly maintained.

As amended, the bill would establish a new registration requirement for all vacant and abandoned residential and commercial properties. A property would be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant for residential or business purposes, it cannot be legally reoccupied, and at least two conditions which indicate abandonment exist. The title holder or mortgage lender responsible for maintaining a property pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51) would be required to register such property with the municipality in which the property is located. A mortgage lender would not be required to register a vacant and abandoned residential property if the lender has provided notice to the clerk of the municipality in which the property is located that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51).

As amended, the bill would require a municipality to notify a responsible party that a property has been determined to be vacant and abandoned upon such determination by the public officer. If a property becomes vacant and abandoned after the effective date of the bill, the responsible party would be required to register the property within 90 days after receipt of that notice.

As amended, the bill would authorize municipalities to establish a fee of not more than \$250 to register a vacant and abandoned property. A renewal fee of not more than \$500 may be established for a renewal if there is an outstanding property maintenance or code violation that remains unabated at the time of renewal, and a renewal fee of not more than \$750 may be established for a subsequent renewal if there continues to be such a violation, or there is a new violation that

remains unabated at the time of renewal. If there is no such violation on a vacant and abandoned property, the renewal fee may be no greater than \$250.

As amended, the bill would authorize a municipality to require responsible parties for vacant and abandoned properties to undertake certain protective measures regarding those properties. Specifically, a municipality would be able to require a responsible party to enclose and secure the property against unauthorized entry, post a sign on the property with pertinent contact information, and maintain liability insurance.

As amended, the bill would require a municipality to notify a title owner prior to imposing a fine for a nuisance or violation of an applicable State or local code concerning the exterior of a vacant and abandoned property. The notice must advise the title owner: that the title owner has not less than 30 days to remedy the violation; that if the violation is not abated or cured within the 30-day period, the municipality may impose a civil fine of up to \$500 per day for each day there is a violation; and that the title holder shall be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation and the fine imposed. A municipality may provide a title owner less than 30 days' notice to remedy the condition before imposing a civil fine if the municipality determines that the nuisance or violation presents an imminent threat to public health or safety.

As amended, the bill would also establish penalties for violations of any of its provisions or any ordinance adopted pursuant thereto concerning registration and protective measures. Specifically, a responsible party would be liable to a penalty of not less than \$500 and not more than \$1,000 for a violation. Each day that a violation continues would constitute an additional, separate, and distinct offense. Any penalty imposed under the bill would be recoverable by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court, Law Division, of the county, or the municipal court of the municipality, in which the property is located would have jurisdiction to enforce the penalty.

As amended, the bill would also amend section 17 of P.L.2008, c.127 (C.46:10B-51) to require that a municipality notify the title owner of a vacant residential property under foreclosure of a nuisance or code violation involving the exterior of the property, and to permit a creditor, which has the same responsibility as the title owner to abate or correct such nuisance or violation, to include the expense of abatement or correction in any foreclosure action against the title owner. A title owner would be required to maintain a vacant residential property purchased or acquired by that owner at a foreclosure sale or by deed in lieu of foreclosure.

The amendments make the bill identical to A4031(3R), currently on second reading in the Assembly.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- Eliminate the requirement that a responsible party register a vacant and abandoned residential property if the municipal clerk of the municipality in which the property is located has been notified that a summons and complaint in an action to foreclose on a mortgage has been filed against the property pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51).
- Require a municipality to notify a responsible party that a property has been determined to be vacant and abandoned upon such determination by the public officer.
- Change the timeframe in which a responsible party has to register a property that becomes vacant and abandoned after the effective date of the bill to within 90 days after receipt of notice that a property has been determined to be a vacant and abandoned property by the municipality.
- Require a municipality to notify a title owner prior to imposing a fine for a nuisance or violation of an applicable State or local code concerning the exterior of a vacant and abandoned property. The notice must advise the title owner: that the title owner has not less than 30 days to remedy the violation; that if the violation is not abated or cured within the 30-day period, the municipality may impose a civil fine of up to \$500 per day for each day there is a violation; and that the title holder shall be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation and the fine imposed. A municipality may provide a title owner less than 30 days notice to remedy the condition before imposing a civil fine if the municipality determines that the nuisance or violation presents an imminent threat to public health or safety.
- Require that a municipality notify the title owner of a vacant residential property under foreclosure of a nuisance or code violation involving the exterior of the property.
- Permit a creditor, which has the same responsibility as the title owner to abate or correct such nuisance or violation, to include the expense of abatement or correction in any foreclosure action against the title owner. This amendment revises current law to limit creditor exposure to nuisance or code violations that involve the exterior of the property and to allow creditors to recover such costs through a foreclosure action.

- Require a title owner to maintain a vacant residential property purchased or acquired by that owner at a foreclosure sale or by deed in lieu of foreclosure.