

ASSEMBLY, No. 4752

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Concerns actions to foreclose right to redeem tax sale certificate under “tax sale law.”

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning actions to foreclose the right to redeem a tax
2 sale certificate, amending R.S.54:5-86 and R.S.54:5-87, and
3 supplementing chapter 5 of Title 54 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. R.S.54:5-86 is amended to read as follows:

9 54:5-86. a. When the municipality is the purchaser of a tax sale
10 certificate, the municipality, or its assignee or transferee, may, at
11 any time after the expiration of the term of six months from the date
12 of sale, institute an action to foreclose the right of redemption.
13 Except as provided in subsection a. of section 39 of P.L.1996, c.62
14 (C.55:19-58) or as provided in subsection b. of this section, for all
15 other persons that do not acquire a tax sale certificate from a
16 municipality, an action to foreclose the right of redemption may be
17 instituted at any time after the expiration of the term of two years
18 from the date of sale of the tax sale certificate, subject to the
19 requirements of section 3 of P.L. , c. (C.)
20 (pending before the Legislature as this bill). On instituting the
21 action the right to redeem shall exist and continue until barred by
22 the judgment 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
25 P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale
26 or thereafter, may at any time file an action with the Superior Court
27 in the county wherein said municipality is situate, demanding that
28 the right of redemption on such property be barred, pursuant to the
29 "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax Foreclosure
30 Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall
31 include a certification by the public officer or the tax collector that
32 the property is abandoned, provided pursuant to subsection d. of
33 section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the
34 certificate holder has unsuccessfully sought such certification from
35 the public officer or tax collector, as the case may be, the certificate
36 holder may submit to the court evidence that the property is
37 abandoned, accompanied by a report and sworn statement by an
38 individual holding appropriate licensure or professional
39 qualifications, and shall provide a copy of those documents
40 submitted to the court to the public officer and the tax collector. On
41 the basis of this submission and any submission provided by the
42 public officer or tax collector, as the case may be, the court shall
43 determine whether the property meets the definition of abandoned
44 property.

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

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

13 (cf: P.L.2015, c.16, s.1)

14
15 2. R.S.54:5-87 is amended to read as follows:

16 54:5-87. The Superior Court, in an action to foreclose the right
17 of redemption, may give full and complete relief under this chapter,
18 in accordance with other statutory authority of the court, to bar the
19 right of redemption and to foreclose all prior or subsequent
20 alienations and descents of the lands and encumbrances thereon,
21 except subsequent municipal liens, and to adjudge an absolute and
22 indefeasible estate of inheritance in fee simple, to be vested in the
23 purchaser, except as provided in, and subject to the provisions of,
24 section 3 of P.L. , c. , (C.) (pending before the Legislature
25 as this bill). The judgment shall be final upon the defendants, their
26 heirs, devisees and personal representatives, and their or any of
27 their heirs, devisees, executors, administrators, grantees, assigns or
28 successors in right, title or interest and no application shall be
29 entertained to reopen the judgment after three months from the date
30 thereof, and then only upon the grounds of lack of jurisdiction or
31 fraud in the conduct of the suit. Such judgment and recording
32 thereof shall not be deemed a sale, transfer, or conveyance of title
33 or interest to the subject property under the provisions of the
34 "Uniform Fraudulent Transfer Act," R.S.25:2-20 et seq.

35 In the event that any federal statute or regulation requires a
36 judicial sale of the property in order to debar and foreclose a
37 mortgage interest or any other lien held by the United States or any
38 agency or instrumentality thereof, then the tax lien may be
39 foreclosed in the same manner as a mortgage, and the final
40 judgment shall provide for the issuance of a writ of execution to the
41 sheriff of the county wherein the property is situated and the
42 holding of a judicial sale as in the manner of the foreclosure of a
43 mortgage.

44 (cf: P.L.1995, c.326, s.1)

45
46 3. (New section) a. As used in this section,

47 "Defendant" means the owner of a parcel of real property for

1 which a tax sale certificate was purchased and whose right of
2 redemption was barred by a Superior Court judge after failing to
3 repay the purchaser of the lien; and “Purchaser” means the person
4 who purchased the tax sale certificate, paid the property taxes on
5 the parcel of real property and filed the foreclosure action with a
6 Court, and on whose behalf the right to redeem was barred by the
7 Court.

8 b. Notwithstanding any provision of the “tax sale law,”
9 R.S.54:5-1 et seq., or the “In Rem Tax Foreclosure Act,”
10 P.L.1948, c.96 (C.54:5-104.29 et seq.), or any other law to the
11 contrary, in the case of a parcel of real property that was the
12 principal residence of the defendant in a foreclosure action filed in
13 Superior Court pursuant to the provisions of R.S.54:5-86, upon the
14 approval of the action to foreclose the right of redemption by the
15 Court, the Court shall not adjudge an absolute and indefeasible
16 estate of inheritance in fee simple to be vested in the purchaser.
17 Instead, the Superior Court shall order that the sum of all property
18 taxes paid by the purchaser, and interest due thereon, together with
19 all costs related to the filing and adjudication of the action to
20 foreclose the right of redemption that were paid by the purchaser,
21 shall be the first priority lien on the property, paramount to any
22 other lien, including any outstanding municipal lien, and shall order
23 the sheriff of the county in which the parcel of real property is
24 located to hold an Internet auction of the property, pursuant to any
25 direction or guidance promulgated by the Administrative Office of
26 the Courts or the Division of Local Government Services in the
27 Department of Community Affairs. The order shall require that all
28 costs of the auction incurred by the sheriff’s office shall be
29 reimbursed from the proceeds of the auction.

30 Not later than 14 days following receipt by the sheriff of the
31 moneys paid by the winning bidder at the auction, the sheriff shall
32 make the following reimbursements from these moneys:

33 (1) To the purchaser, the sum of all property taxes paid, and
34 interest due thereon, together with all costs related to the filing and
35 adjudication of the action to foreclose the right of redemption;

36 (2) To the municipality in which the parcel of real property is
37 located, the amount of any other municipal liens on the property
38 together with interest due and owing thereon.

39 The sheriff shall retain for the sheriff’s office sufficient funds to
40 cover the costs of the auction, as required in this section

41 Once these payments have been made, the sheriff shall then
42 forward any remaining moneys to the defendant.

43
44 4. This act shall take effect immediately.

STATEMENT

This bill would revise the process governing an action filed in Superior Court by the holder of a tax lien on certain parcels of real property when that person institutes an action to foreclose the right of redemption of the tax lien. The right of redemption of a tax lien is the right of the owner of the property on which the tax lien exists to pay the holder of the tax lien and remove the lien from the property. Currently, under R.S.54:5-86, for persons who 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. Once an action to foreclose the right to redeem has been filed by a tax lien holder, the right to redeem continues to exist and continue until barred by the judgment of the Superior Court. However, upon the action by the judge to bar the right of redemption and foreclose all liens other than municipal liens, the judge grants the holder of the tax sale certificate title to the property, and that person becomes the owner of the property. At this point, the previous owner's rights to the property are permanently extinguished and the previous owner also loses any value, commonly referred to as equity, built up in the property through appreciation, or the payoff of a mortgage. For senior citizens, who oftentimes own their homes mortgage-free, or other property taxpayers who have paid down mortgages or whose property has considerably appreciated over time, the loss of the home in a tax lien foreclosure, and all of the equity in their home as well, could lead to homelessness or other hardship, as there are no funds with which to rent, or to purchase, another home.

The provisions of this bill are intended to address the unfairness of the loss of that equity to property owners when the property was used as its owners' permanent residence.

Under the bill, in the case of a parcel of real property that was the principal residence of the defendant in a tax lien foreclosure action filed in Superior Court, upon the approval of the action to foreclose the right of redemption by the Court, the Court would not grant the plaintiff (the tax lien holder) ownership of the property. Instead, the Court would order that all of the property taxes paid by the plaintiff, and interest due thereon, together with all costs related to the filing and adjudication of the action to foreclose the right of redemption that were paid by the plaintiff, would be the first priority lien on the property, paramount to any other lien, including any outstanding municipal lien, and would order the sheriff of the county in which the parcel of real property is located to hold an Internet auction of the property.

Once the Internet auction is over and the property has been sold, not later than 14 days following receipt by the sheriff of the moneys

1 paid by the winning bidder at the auction, the sheriff must forward
2 to the tax lien holder plaintiff the sum of all property taxes paid by
3 the plaintiff, and interest due thereon, together with all costs related
4 to the filing and adjudication of the action to foreclose the right of
5 redemption. The sheriff must also pay to the municipality the
6 amount of any other municipal liens on the property plus any
7 interest due and owing thereon, and retain for the sheriff's office
8 sufficient funds to cover the costs of the auction.

9 Once those payments are made, the sheriff would then forward
10 any remaining moneys collected from the winning bidder of the
11 auction to the defendant. This allows the defendant to retain funds
12 to either purchase, or rent, another home.