

SENATE, No. 879

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

"Property Tax Lien Pilot Program," establishes pilot program to allow certain municipalities greater control over sale of tax liens.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a pilot program to allow certain municipalities
2 greater control over tax liens, supplementing Title 54 of the
3 Revised Statutes, and amending P.L.1962, c.161.

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

7
8 1. (New section) This act shall be known and may be referred
9 to as the "Property Tax Lien Pilot Program."

10
11 2. (New section) The Legislature finds and declares that:

12 a. Many municipalities, particularly distressed urban
13 municipalities, are limited by the provisions of the "tax sale law,"
14 R.S.54:5-1 et seq., from pursuing valuable opportunities for revenue
15 generation and urban revitalization.

16 b. If given the opportunity to take control of tax liens under
17 favorable conditions, municipalities could benefit from interest,
18 penalties on lien redemption, and the opportunity to foreclose on
19 liens not redeemed. Those municipalities could benefit
20 significantly as a result, both in terms of revenue generation and
21 urban revitalization.

22 c. While it is in the public interest for the State to offer these
23 opportunities, participating municipalities would face significant
24 obligations.

25 d. Therefore, it is appropriate for the State to establish a pilot
26 program through which municipalities meeting specific criteria may
27 pursue these opportunities under the supervision of the Division of
28 Local Government Services in the Department of Community
29 Affairs to help determine the efficacy of increased control over tax
30 liens.

31

32 3. (New section) As used in this act:

33 "Director" means the Director of the Division of Local
34 Government Services in the Department of Community Affairs.

35 "Division" means the Division of Local Government Services in
36 the Department of Community Affairs.

37 "Eligible municipality" means a municipality qualifying for aid
38 pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

39 "Participating municipality" means an eligible municipality for
40 which an application to participate in the pilot program has been
41 approved by the division pursuant to P.L. , c. (C.) (pending
42 before the Legislature as this bill).

43 "Pilot program" means the program established under section 4
44 of P.L. , c. (C.) (pending before the Legislature as this bill).

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 "Qualified public or private entity" means any entity designated
2 by the division on the basis of having demonstrated knowledge and
3 substantial experience in the management of tax liens and property
4 foreclosure.

5
6 4. (New section) a. The division shall establish a pilot
7 program for the purpose of enhancing the ability of participating
8 municipalities to acquire property tax liens at tax sale in order to
9 facilitate revenue generation and urban revitalization opportunities.

10 b. Any eligible municipality may submit an application to the
11 division at any time after the effective date of P.L. , c. (C.)
12 (pending before the Legislature as this bill) to be designated a
13 participating municipality by the division, and exercise the powers
14 and rights set forth in sections 5 through 9 of P.L. , c. (C.)
15 (pending before the Legislature as this bill) with respect to
16 properties in that municipality subject to the "tax sale law,"
17 R.S.54:5-1 et seq.

18 c. The application shall include the following information:

19 (1) a comparative analysis of projected revenues from tax sales,
20 interest, and penalties and a comparative analysis of tax
21 foreclosures that would have accrued to the municipality over the
22 preceding three years and those which are likely to accrue in the
23 following five years under the existing provisions of the "tax sale
24 law," R.S.54:5-1 et seq., and as a result of participation in the pilot
25 program;

26 (2) a plan showing how the municipality intends to carry out its
27 responsibilities regarding tax liens it holds, including but not
28 limited to collection of delinquent taxes, tax foreclosure and resale
29 of foreclosed properties, under the pilot program;

30 (3) the titles and qualifications of the municipal officers, agents,
31 and others who the municipality intends to engage in carrying out
32 the responsibilities of the pilot program; and

33 (4) a description of the municipality's plans for economic and
34 physical stabilization and revitalization, including a discussion of
35 actions currently being taken by the municipality to foster economic
36 and physical stabilization and revitalization.

37 d. The division shall designate as participating municipalities
38 those municipalities that submit a sound plan for carrying out the
39 responsibilities imposed on them under the pilot program, which
40 demonstrate their ability to carry out the plan, and which show that
41 participation in the pilot program is likely to be beneficial to the
42 municipality's fiscal, economic, and physical stabilization and its
43 revitalization.

44
45 5. (New section) a. Whenever the governing body of a
46 participating municipality shall, by resolution, determine that
47 bidding on a particular parcel or parcels of real estate that are
48 scheduled to be sold at public auction pursuant to the "tax sale law,"

1 R.S.54:5-1 et seq., would be useful for a public purpose, or would
2 be financially advantageous to the municipality, notwithstanding
3 section 1 of P.L.1962, c.161 (C.54:5-30.1), it may authorize and
4 direct a municipal official to attend the auction and bid for that real
5 estate at the tax sale on behalf of the participating municipality
6 utilizing the methods permitted by subsections b. and c. of this
7 section. This authorizing resolution, if specified by the
8 municipality, also may authorize and direct the municipal officer to
9 bid on any subsequent lien on the same property in any future tax
10 sale, also using the methods permitted by subsections b. and c. of
11 this section. Notwithstanding any other provision of law, the
12 participating municipality shall not be required to appropriate
13 specific funds in order to bid on any parcel at any tax sale.

14 b. At the commencement of bidding on any parcel, the
15 municipal official authorized to bid on that parcel shall announce
16 that the participating municipality is bidding on the parcel. The
17 municipal official's bid shall be preemptive. There shall be no
18 further bidding on that parcel and the parcel shall be deemed struck
19 off to the participating municipality at the amount determined
20 according to R.S.54:5-34.

21 c. Alternatively, at any point prior to the commencement of the
22 public auction, the tax collector may post a list of properties which
23 the governing body of the participating municipality has authorized
24 and directed to be bid on behalf of the municipality. This list shall
25 be posted in a prominent location in the place where the auction is
26 to be held. On commencement of the auction, the tax collector shall
27 notify the bidders that the participating municipality has bid on the
28 properties on that list, and that they are withdrawn from the public
29 auction and deemed struck off to the participating municipality.

30 d. Any municipal tax lien acquisition pursuant to this section
31 shall not be deemed final unless approved by a resolution by the
32 municipal governing body at its next meeting. Absent this
33 approval, the municipality shall be barred from bidding on the same
34 property at the next tax sale only.

35 e. Whenever a participating municipality acquires a tax lien
36 pursuant to this section, it shall have all the rights provided by
37 R.S.54:5-34.

38

39 6. (New section) a. Notwithstanding any other provision of
40 law, regarding any lien acquired pursuant to section 5 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill), any
42 participating municipality may provide by resolution of the
43 governing body that no additional interest shall accrue on the taxes
44 uncollected at the time of tax sale for six months following the tax
45 sale on any property occupied by the owner as their principal
46 residence, who has occupied the property as their principal
47 residence for the year preceding the tax sale, and whose household
48 income for the most recent calendar year was less than the area

1 median income, as most recently promulgated by the United States
2 Department of Housing and Urban Development for the geographic
3 area in which the municipality is located. In any municipality
4 partaking in this section, a property shall receive this treatment so
5 long as the owner applies to the municipal tax collector pursuant to
6 subsection b. of this section.

7 b. In order to receive this waiver of interest on uncollected
8 taxes, the homeowner shall provide a sworn statement to the
9 municipal tax collector on a form provided by the tax collector that
10 they are the owner of the property and occupy it as their principal
11 residence, have occupied the property as their principal residence
12 for the year preceding the tax sale, and that their household income
13 for the most recent calendar year was less than the area median
14 income, as most recently promulgated by the United States
15 Department of Housing and Urban Development, along with such
16 reasonable documentation that the municipal tax collector may
17 require.

18 c. In all participating municipalities that partake in this section,
19 the notice to owner provided under R.S.54:5-27 prior to the tax sale
20 shall include notice of the availability of a waiver of interest as
21 provided in this section and a table showing the area median income
22 as most recently promulgated by the United States Department of
23 Housing and Urban Development, by household size.

24 d. In the event that the tax collector finds that any individual
25 has received this waiver by falsely swearing that they are the
26 homeowner of a particular property or that their income is below
27 the area median income as most recently promulgated by the United
28 States Department of Housing and Urban Development, that
29 individual shall be subject to a penalty of \$2,500, or three times the
30 interest foregone by the municipality, whichever is greater. That
31 amount shall be added to the tax bill for the property, in addition to
32 any civil or criminal penalties otherwise applicable.

33 e. In the event the property owner has not redeemed the
34 property within six months after the tax sale, the waiver shall
35 become void, and the amount waived on any taxes still unpaid shall
36 be added to the amount due.

37 f. This waiver shall not apply to any interest that may be due
38 on any taxes that become due and delinquent subsequent to the tax
39 sale.

40

41 7. (New section) a. Notwithstanding any other provision of
42 law, any participating municipality may contract with the county in
43 which it is located, with any other municipality, or with any
44 qualified public or private entity to provide the services that a
45 municipality may require in order to take any and all actions with
46 respect to tax liens held by the municipality, including but not
47 limited to collection of delinquent taxes, tax foreclosure, and resale
48 of foreclosed properties.

1 b. When all of the parties to a contract under subsection a. of
2 this section are public entities, the contract shall be governed by the
3 provisions of the “Uniform Shared Services and Consolidation
4 Act,” P.L.2007, c.63 (C.40A:65-1 et seq.).

5 c. When any of the parties to a contract under subsection a. of
6 this section are private entities, and when the services that may be
7 provided under this section are not “professional services” as
8 defined in subsection (6) of section 2 of P.L.1971, c.198 (C.40A:11-
9 2), they shall be considered “extraordinary unspecifiable services”
10 as defined in subsection (7) of section 2 of P.L.1971, c.198
11 (C.40A:11-2).

12
13 8. (New section) a. Notwithstanding any provisions of
14 N.J.S.40A:2-51 to the contrary, in order to fund unpaid tax liens
15 designated by the municipality pursuant to P.L. , c. (C.)
16 (pending before the Legislature as this bill), a participating
17 municipality may incur indebtedness, borrow money, and authorize
18 and issue negotiable refunding bonds in any amount that the
19 municipality determines necessary, subject to approval by the Local
20 Finance Board in the Department of Community Affairs, in addition
21 to the other purposes for which it may do the same under
22 N.J.S.40A:2-51.

23 b. In anticipation of the issuance of the bonds under subsection
24 a. of this section, the participating municipality may issue bond
25 anticipation notes. Each series of notes shall mature no later than
26 one year from the date of issuance and may be renewed
27 periodically. However, all such bonds and any notes in anticipation
28 thereof shall mature no later than five years from the date of initial
29 issuance.

30 c. All bonds or notes issued pursuant to this section shall be
31 backed by the taxing power of the municipality.

32 d. The proceeds realized from the redemption of tax liens or
33 from the sale or other disposition of associated real property, shall
34 be held in a debt service reserve fund established pursuant to
35 N.J.S.40A:2-62, at least to the extent needed for repayment of
36 principal and interest on the bonds and notes in the current fiscal
37 year. Any amount in excess of that needed for the repayment of
38 principal and interest on the bonds and notes in the current fiscal
39 year may be transferred into the general fund of the municipality as
40 miscellaneous revenue pursuant to the "Local Budget Law,"
41 N.J.S.40A:4-1 et seq.

42 e. Pursuant to the requirements of section 1 of P.L.1978, c.35
43 (C.40A:3-11), bonds issued pursuant to this section may be further
44 secured as qualified refunding bonds.

45
46 9. (New section) a. Any participating municipality may
47 operate under the provisions of the pilot program created by P.L. ,
48 c. (C.) (pending before the Legislature as this bill) for a period

1 of no less than five years, unless removed from the program by the
2 division pursuant to this section.

3 b. Participating municipalities shall provide annual reports to
4 the division on the status of the pilot program, including revenues
5 and expenditures, and the status of the tax liens and properties that
6 are acquired by the municipality pursuant to the pilot program.

7 c. Upon request by any participating municipality, when the
8 division finds that the municipality is materially benefiting from
9 participating in the pilot program, it may extend the number of
10 years during which the municipality may participate in the program,
11 in increments of three years, without limitation on the number of
12 extensions.

13 d. (1) If the division finds that a participating municipality is
14 not adequately carrying out its responsibilities under the pilot
15 program, or that the municipality's fiscal condition is being
16 materially harmed by continued participation in the pilot program, it
17 shall notify the municipality, including a list of corrective actions
18 that the municipality is required to take in order to remain in the
19 pilot program.

20 (2) If, at the end of one year from notification by the division,
21 the division finds that the conditions that led to notification have
22 not materially changed, the division may order the participating
23 municipality removed from the pilot program and to cease operating
24 under the provisions of the pilot program.

25 (3) When a participating municipality is ordered removed from
26 the pilot program under paragraph (2) of this subsection, then the
27 division shall take such steps as may be necessary to ensure that any
28 legal or financial obligations entered into by the municipality are
29 met.

30 e. The director shall provide a report to the Governor and the
31 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
32 within eight years following the effective date of P.L. ,
33 c. (C.) (pending before the Legislature as this bill),
34 recommending whether the program should be continued in its
35 current form, expanded to other classes of municipalities, or
36 terminated in its entirety.

37

38 10. Section 1 of P.L.1962, c.161 (C.54:5-30.1) is amended to
39 read as follows:

40 1. Whenever the governing body of a municipality shall by
41 resolution determine that a particular parcel or parcels of real estate,
42 scheduled to be sold at public auction pursuant to the tax sale law,
43 would be useful for a public purpose, it may authorize and direct a
44 municipal official to attend the auction and bid for such parcel or
45 parcels at such sale on behalf of the municipality in the same
46 manner as any other bidder. Municipalities deemed "participating
47 municipalities" under the pilot program established pursuant to
48 section 4 of P.L. , c. (C.) (pending before the Legislature as

1 this bill) shall follow the bidding process established in section 5 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).
3 (cf: P.L.1962, c.161, s.1)

4
5 11. (New section) a. The Director of the Division of Local
6 Government Services in the Department of Community Affairs, in
7 accordance with the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.), may adopt rules and regulations to
9 effectuate the provisions of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 b. The director shall prepare and disseminate guidelines and
12 forms adopted pursuant to section 1 of P.L. 2011, c.215 (C.52:14B-
13 3a), as necessary for the administration of section 4 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), and such
15 other sections of this act as the director deems appropriate.

16
17 12. This act shall take effect immediately.

20 STATEMENT

21
22 This bill establishes a pilot program through which municipalities
23 meeting specific criteria may pursue opportunities for revenue
24 generation and urban revitalization through the "tax sale law,"
25 R.S.54:5-1 et seq., under the supervision of the Division of Local
26 Government Services in the Department of Community Affairs by
27 taking control of tax liens. If given the opportunity to take control of
28 tax liens under favorable conditions, municipalities may benefit from
29 interest, penalties on lien redemption, and the opportunity to foreclose
30 on liens not redeemed, which would generate revenue and provide
31 urban revitalization opportunities. A municipality that qualifies for
32 urban aid under P.L.1978, c.14 (C.52:27D-178 et seq.) would be
33 eligible to participate in the pilot program.

34 Under the pilot program, any eligible municipality would be able
35 to submit an application to the division to participate. The application
36 is required to include an analysis of the projected benefits of
37 participation in the program, a plan detailing how municipal
38 responsibilities would be carried out, a discussion of what individuals
39 would be responsible for the program, and a discussion of larger
40 municipal revitalization efforts. Based on these aspects of the
41 application, the division would designate participating municipalities.

42 In a tax sale, the property itself is not sold. The municipality
43 auctions off a lien on the property for the value of the delinquent taxes.
44 Under current law each municipality that has tax-delinquent properties
45 is required to hold at least one sale of property tax liens per year.
46 Municipalities participating in the pilot program would enjoy greater
47 power with regard to tax sale properties. Under the bill, the
48 municipality would be able to direct a municipal official to bid at the

1 tax sale on one or more parcels of real estate whenever its governing
2 body determines that the property would be either useful for a public
3 purpose or financially beneficial. The municipal official would be
4 authorized to preempt all other bidding on that property, allowing the
5 municipality to obtain the tax lien at an advantageous rate. At its next
6 meeting following the tax lien sale, the municipal governing body
7 would be required to approve the sale through resolution. Without this
8 final approval, the municipality would be barred from bidding on the
9 same property at the next tax sale.

10 For tax liens on owner-occupied properties obtained under the
11 provisions of this bill, for which the household income is below the
12 region's median income, municipalities may provide by resolution that
13 no additional interest would accrue on uncollected taxes for the first
14 six months following the tax sale. To benefit from this interest waiver,
15 the homeowner would first need to apply to the municipal tax collector
16 to be found eligible.

17 To most effectively manage its tax liens, the bill allows
18 participating municipalities to contract with the county, another
19 municipality, or any other qualified public or private entity.
20 Management needs may include actions such as the collection of
21 delinquent taxes, tax foreclosure, and the resale of foreclosed
22 properties.

23 To fund unpaid tax liens, the bill allows a participating
24 municipality to incur indebtedness, borrow money, and authorize and
25 issue negotiable refunding bonds in any amount determined necessary
26 if approved by the Local Finance Board in the Department of
27 Community Affairs. The municipality may also issue bond
28 anticipation notes prior to bond issuance. Any bonds or notes issued
29 would be backed by the municipality's taxing power. The bill directs
30 that municipal proceeds from the redemption of tax liens, or from the
31 sale of associated property, would be held in a debt service reserve
32 fund to the extent needed for repayment of principal and interest on the
33 bonds and notes in the current fiscal year. Any amount in excess of
34 that needed for principal and interest repayment could be transferred to
35 the municipality's general fund as miscellaneous revenue. Bonds may
36 be further secured with State urban aid, and designated as qualified
37 refunding bonds, through the process required by section 1 of
38 P.L.1978, c.35 (C.40A:3-11).

39 A participating municipality would be able to operate under the
40 bill's pilot program for no less than five years, unless removed by the
41 division. The bill requires participating municipalities to provide
42 annual reports to the division on the status of the program. Upon
43 municipal request, the division may extend the number of years the
44 municipality may participate in the program, in increments of three
45 years, without limitation on the number of extensions.

46 The bill gives the division oversight of a municipality's program. If
47 the division finds that a participating municipality is not adequately
48 carrying out its responsibilities under the program, or that the

1 municipality's fiscal condition is being materially harmed by
2 continued participation in the program, it would notify the
3 municipality, and provide a list of corrective actions that would be
4 required in order to remain in the program. At the end of one year
5 from notification, if the division finds that those undesirable conditions
6 have not materially changed, the division may order the municipality
7 removed from the program. In such an event, the division shall take
8 the steps necessary to ensure that any legal or financial obligations the
9 municipality has entered are met. Within eight years of the effective
10 date of this act, the director shall produce recommendations on
11 whether or not the program should be continued.