

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1149

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: DECEMBER 23, 2021

SUMMARY

- Synopsis:** Requires registration of certain vacant and abandoned properties with municipalities and provides enforcement tools related to maintenance of these properties.
- Type of Impact:** Indeterminate annual impact on municipal finances.
- Agencies Affected:** Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Municipal Expenditures	Indeterminate Impact		
Municipal Revenue	Indeterminate Impact		

- The Office of Legislative Services (OLS) concludes that the bill would have an indeterminate impact on municipal finances depending on whether a municipality already administers a vacant and abandoned property registration program.
- If a municipality already operates a registration program, then the fiscal impact of the bill is expected to vary depending on whether this bill pre-empts any local ordinances governing existing property registration programs and on the degree to which any existing municipal program differs from that prescribed by the bill.
- If this bill does not pre-empt existing local ordinances governing registration of vacant and abandoned properties, then there would be no fiscal impact on municipalities that currently have a registration program. To the extent that this bill will pre-empt existing local ordinances, municipal revenues and expenditures could increase or decrease depending on how closely these existing municipal ordinances conform to this bill.
- By requiring municipalities to administer the registration of all vacant and abandoned properties located within their boundaries and allowing for the collection of registration,

renewal, and penalty fees, the bill is expected to increase the expenditures and revenues of any municipality that currently does not administer a property registration program.

BILL DESCRIPTION

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.

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 would be required to register such property.

The bill would authorize municipalities to establish a fee of not more than \$250 to initially 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. If a greater fee for the registration or renewal of a vacant and abandoned property was established by a municipal ordinance adopted prior to the enactment of the bill, that greater fee may continue to be imposed and collected.

A municipality would also be authorized to require responsible parties for vacant and abandoned properties to undertake certain protective measures regarding such properties after notifying the responsible party that the property is vacant. Specifically, a municipality would be able to require a responsible party to secure the property against unauthorized entry, post a sign on the property with pertinent contact information, and maintain liability insurance.

The bill would also establish penalties for violations of any of its provisions or any ordinance adopted pursuant thereto. Specifically, a responsible party would be liable to a penalty of not less than \$500 and not more than \$1,000 for a violation. If a greater penalty for such violations was established by a municipal ordinance adopted prior to the enactment of the bill, that greater penalty may continue to be imposed and collected. Each day that a violation continues would constitute an additional, separate, and distinct offense. The Superior Court, Law Division, in the county, or the municipal court of the municipality, in which the property is located would have jurisdiction to enforce the penalty.

The bill would not diminish property maintenance responsibilities for property owners who are not subject to the bill's provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill would have an indeterminate impact on municipal finances depending on whether a municipality already administers a vacant and abandoned property registration program. For example, the bill is expected to increase the expenditures and revenues of any municipality that does not currently administer a vacant and abandoned property registration program. However, if a municipality already operates a comparable registration program, then the fiscal impact of the bill is expected to vary depending on the degree to which the municipality's existing registration differs from that prescribed by the bill and whether this bill would pre-empt local ordinances governing existing property registration programs.

Fiscal Impact on Municipalities without Existing Registration Programs

Under the bill, the responsible party of any vacant and abandoned property would be required to register the property with the municipality in which it is located. Depending on the fees established by local ordinance, the responsible party could also be required to pay an initial registration fee of no greater than \$250 and an annual renewal fee of not more than \$750, depending on the extent to which property maintenance and code violations are discovered and abated on the property. Additionally, the responsible party of a vacant and abandoned property would be liable to pay a penalty of not less than \$500 and not more than \$1,000 for each day in which a violation occurs.

As a result, any municipality that has not already established a vacant and abandoned property registration program would be expected to experience increased expenditures and revenues as a result of the bill. Specifically, those municipalities would incur additional costs associated with administering the registration program and inspecting properties for maintenance and code violations. However, these anticipated cost increases may vary depending on: (1) the total number of vacant and abandoned property located within the municipality; and (2) whether the municipality hires a third-party contractor to conduct property inspections, thereby reducing the need to employ additional personnel. Absent this information, the OLS is unable to quantify the anticipated increase in expenditures that these municipalities would experience.

Additionally, these municipalities are expected to receive increased revenues due to the collection of registration, renewal, and penalty fees. However, the amount of increased revenue collected by each municipality would vary depending on: (1) the number of vacant and abandoned properties located within the municipality; (2) the registration, renewal, and penalty fees established by the municipality; and (3) the number of property maintenance or code violations identified at each property, and the rate at which those violations are abated. Given that the OLS lacks sufficient information to predict each of these factors, the OLS is unable to quantify the increase in revenue that these municipalities are expected to experience.

Fiscal Impact on Municipalities with Existing Registration Programs

Although the bill requires municipalities to administer vacant and abandoned property registration program, many municipalities have already adopted ordinances to establish comparable programs. It is unclear whether existing local ordinances regarding the registration of vacant and abandoned property would be pre-empted by this bill or if these property registration programs would be allowed to continue unaffected. If this bill does not pre-empt existing local ordinances governing registration of vacant and abandoned properties, then there would be no fiscal impact on municipalities that currently have a registration program. To the extent that this

bill does pre-empt existing local ordinances, municipal revenues and expenditures could increase or decrease depending on how closely these municipal ordinances conform to this bill.

For example, the OLS notes that if this bill pre-empts local ordinances, then the bill could decrease the expenditures and revenues of certain municipalities if fewer vacant and abandoned properties would be subject to registration under the bill compared to the municipality's existing ordinance. Under the bill, any property that meets the following definition of vacant and abandoned property would be subject to the registration requirement: any residential or commercial property that is not legally occupied, which is in such condition that it cannot be legally occupied, and at which at least two indications of abandonment exist, such as overgrown vegetation, an accumulation of newspapers, disconnected utility services, and other reasonable indications of abandonment.

However, according to an examination of existing municipal registration programs, numerous municipalities currently define vacant and abandoned property more broadly than the bill, thereby potentially causing a greater number of properties to be registered with the municipality than would be required under the bill. For example, in addition to those properties qualifying as vacant and abandoned property under the bill, it appears that numerous municipalities also require the registration of any properties that have been designated as abandoned property pursuant to the Abandoned Properties Rehabilitation Act. Under this law, a public officer of the municipality may deem a property to be abandoned if the property has not been occupied for six months and certain additional criteria are met.

Assuming that certain properties, which have been designated as abandoned pursuant to the Abandoned Properties Rehabilitation Act, would not qualify as vacant and abandoned property under the bill, it is possible that the size of certain municipal vacant and abandoned property registries could decrease as result of the bill, thereby reducing expenditures and revenues for those municipalities. Conversely, if the bill's definition of vacant and abandoned property is broader than a municipality's existing ordinance, then the bill could increase the expenditures and revenues of that municipality by requiring more properties to become registered.

The OLS also notes that the fiscal impact of the bill could vary depending on the rate at which a municipality currently requires the renewal of a vacant and abandoned property registration. For example, if a municipality currently requires the registration of vacant and abandoned properties to be renewed every other year, then the bill would be expected to increase revenues due to the collection of additional renewal fees.

Due to information constraints, the OLS is unable to analyze the differences between the requirements of each existing vacant and abandoned property registration ordinance and those prescribed by the bill. As a result, the OLS is unable to estimate the fiscal impact of the bill on those municipalities that have already established comparable registration programs.

Section: *Local Government*
Analyst: *Abigail Stoyer*
 Assistant Research Analyst
Approved: *Thomas Koenig*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).