



Abandoned Properties Rehabilitation Act

OVERVIEW OF THE ABANDONED PROPERTIES REHABILITATION ACT, P.L.2003, c.210, AS AMENDED

The following is an overview of the principal provisions of the Abandoned Properties Rehabilitation Law, Chapter 210 of the Laws of 2003, as enacted by the New Jersey State Legislature and signed into law by Governor McGreevey on January 8, 2004. This summary is provided for your information, and is not an official document of the State of New Jersey.

Sec. 1 Short Title

Sec. 2 Legislative findings

The legislature makes a number of findings with respect to the impact of abandoned properties, citing their social and economic impact on the communities in which they are located, and that abandoned properties are presumptively to be considered nuisances.

The legislature also finds that failure of an owner to maintain a property, as well as failure to comply with municipal orders to demolish or repair the property, creates a presumption of abandonment.

Sec. 3 Definitions

This section includes a definition of “qualified rehabilitation entity”, entities that may act as an agent of a municipality for purposes of the possession provisions of the law (see Sections 7 through 21 below).

Sec. 4 Definition of abandoned property

The act defines “abandoned property” as any property that has not been legally occupied for six months, and which also meets *any one* of the following criteria: (a) the property is in need of rehabilitation, and no rehabilitation has taken place for six months; (b) construction was initiated and then discontinued prior to completion, and no construction has taken place for six months; (c) the property is in property tax arrears by at least one installment; or (d) the property is determined to be a nuisance by the public officer. This section was amended in 2005 to provide that certain mixed-use buildings could be deemed abandoned property if the residential portion of the building is vacant, even if limited commercial uses are still ongoing.

Sec. 5 Definition of nuisance

The act provides a detailed definition of what conditions serve as the basis for a determination by the public officer that a property is a nuisance. In addition to traditional nuisance definitions, including fire risk, health and safety hazards, physical deterioration, and the presence of vermin or debris, the law provides that a property is a nuisance if its dilapidated appearance affects the welfare, including the economic welfare of residents in close proximity to the property.

Sec. 6 Exceptions

Properties on which an entity other than the municipality holds a tax lien and is not in arrears, and where that entity moves to foreclose within six months after the property is eligible for foreclosure and

diligently pursues foreclosure thereafter; and properties held for seasonal use, are not considered abandoned property. A finding that a property is abandoned under this law does not constitute a finding that a property is abandoned for purposes of zoning or land use regulation.

Sections 7 through 21 Possession of abandoned properties (vacant property receivership)

Where a property that has been found to be abandoned under any of the criteria of Sec. 4 or 5 of the act is deemed to be in need of rehabilitation, the act provides that a municipality can seek possession of the property from the courts in order to rehabilitate the property. The court must first give the owner and any lienholder the opportunity to rehabilitate the property, but if neither is qualified, or if neither agrees to do so by a firm timetable, the municipality may be granted possession by the court. The municipality may delegate its authority to bring complaints under this section to a qualified rehabilitation entity, which may be a CDC or a developer.

The municipality must then submit a plan for rehabilitation of the property, and may designate a qualified rehabilitation entity to act as its agent to carry out the plan. Possession entitles the entity to receive grants or borrow money from state agencies or other sources, and to secure funds it borrows with a lien that has priority over all existing liens other than municipal liens. In order to recover control of the property, the owner must make the municipality whole, comply with all conditions of grants or loans obtained for the property, or repay the funders in full. If the owner does not seek recovery of the property in a timely fashion, the court can authorize the purchase of the property by the entity, or the sale of the property to a third party, with the provisions for distribution of the proceeds set forth in the bill. Any municipal costs incurred in connection with this section are a municipal lien as provided in R.S.54:5-9.

Sec. 22 Limitations on certain lienholders

Lienholders that share a common interest with the owner of an abandoned property as defined in the law are not entitled to certain rights otherwise available under the law to lienholders.

Sec. 23 Recourse against owners

In addition to the liens currently authorized by law, the law gives municipalities recourse against any other assets of the owners of abandoned properties to recover funds spent for repairs, boarding or demolition of the property. An owner includes an individual, any member of a partnership, or any owner of a 10% or greater interest in any other business entity, including a corporation or LLC.

Sec. 24 Special tax sale

The law gives municipalities the authority to remove properties on the municipality's abandoned property list from the regular tax sale process, and sell them through special tax sales. In a special tax sale, the municipality may set qualifications for bidders, may limit bidding to entities that commit to rehabilitate or reuse the properties, may reduce the minimum bid below the amount of taxes due, and may bundle properties into packages for qualified bidders. Tax liens sold through a special tax sale may revert to the municipality if the buyer fails to carry out any provision that has been established as a condition of sale.

Sec. 25 Valuation for eminent domain

The law establishes a standard for determining the value of properties on the abandoned property list for purposes of eminent domain proceedings. As a general proposition, if the market value of the property after rehabilitation, or after demolition and construction of a new unit on the site, is less than the cost of rehabilitation, or demolition and construction, as the case may be, there is a rebuttable presumption that the value of the abandoned property is zero.

Sec. 26 Amendment to C.40:48-2.4 dealing with code enforcement

C.40:48-2.4 is amended to authorize a municipality to designate more than one public officer for different purposes.

Sec. 27 Amendments to Sec. 35 of the Urban Redevelopment Law

The Urban Redevelopment Law is amended to (1) make the definition of abandoned property consistent with this act, (2) give municipalities broad flexibility in appointing public officers to address abandoned property issues, and (3) give municipalities flexibility in requiring a bond from tax lien purchasers of abandoned properties.

Sec. 28 Amendments to Sec. 36 of the Urban Redevelopment Law dealing with creating and maintaining an abandoned property list

The law amends the Urban Redevelopment Law in a number of important respects to make the provisions governing abandoned property lists more workable:

- Remove the requirement that a municipality conduct a complete inventory of abandoned property before initiating an abandoned property list
- Expand the potential scope of the list to include the entire municipality (not just redevelopment areas), or those parts of the municipality designated by the governing body
- Enable the municipality to add properties to the list or delete properties from the list at any time
- Permit the municipality to pursue the remedies associated with a property's being on the list at any time after one property has been listed and has passed the period for appeal
- Deletes the requirement that the Department of Community Affairs adopt rules and regulations governing this section

Sec. 29 Removal of property on which tax lien held

The law provides that the owner of a tax sale certificate on an abandoned property, who pays all municipal taxes and liens when due, can have the property removed from the abandoned property list, but must initiate foreclosure proceedings within six months from when the property was first placed on the list.

Sec. 30 Creation of abandoned property list by petition

The law establishes a procedure whereby if a municipality does not create an abandoned property list, an ordinance to do so can be proposed by petition.

Sec. 31 Participation in proceedings

The law establishes procedures under which interested parties can get properties added to the abandoned property list, and participate in hearings on abandoned properties held by the public officer. Interested parties include residents of the municipality, owners and operators of businesses within the municipality, and organizations representing residents' interests or furthering neighborhood revitalization within the area where the property is located.

Sec. 32 Amendments to the Tax Sale Law expanding rights of tax lien purchasers

The law amends the Tax Sale Act, R.S.54:5-86 to enhance the powers of entities other than the municipality holding tax liens (tax sale certificates) on abandoned properties.

Such entities are:

- Permitted to foreclose at any time, rather than waiting two years;
- Granted right of entry to make repairs or abate nuisance conditions; and
- Permitted to add the cost of such repairs to the balance due for redemption.

In the absence of a municipal abandoned property list, the public officer is required to provide a tax lien holder with a certification that the property meets the abandoned property criteria of the Act for purposes of this section.