

SB2177



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2177

Introduced 1/4/2006, by Sen. George P. Shadid

SYNOPSIS AS INTRODUCED:

60 ILCS 1/85-50

Amends the Township Code. Eliminates the requirement that Section 85-50, which authorizes any township board to formally request that the county board commence proceedings to repair, demolish, or enclose unsafe or abandoned buildings, applies only to requests made by the township before January 1, 2006 and related proceedings to implement or enforce Section 85-50. Effective immediately.

LRB094 15720 HLH 50931 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Township Code is amended by changing Section
5 85-50 as follows:

6 (60 ILCS 1/85-50)

7 Sec. 85-50. Demolition, repair, or enclosure of buildings.

8 (a) The township board of any township may formally request
9 the county board to commence specified proceedings with respect
10 to property located within the township but outside the
11 territory of any municipality as provided in Section 5-1121 of
12 the Counties Code. If the county board declines the request as
13 provided in Section 5-1121 of the Counties Code, the township
14 may exercise its powers under this Section.

15 (b) The township board of each township may demolish,
16 repair, or enclose or cause the demolition, repair, or
17 enclosure of dangerous and unsafe buildings or uncompleted and
18 abandoned buildings within the territory of the township and
19 may remove or cause the removal of garbage, debris, and other
20 hazardous, noxious, or unhealthy substances or materials from
21 those buildings.

22 The township board shall apply to the circuit court of the
23 county in which the building is located (i) for an order
24 authorizing action to be taken with respect to a building if
25 the owner or owners of the building, including the lien holders
26 of record, after at least 15 days' written notice by mail to do
27 so, have failed to commence proceedings to put the building in
28 a safe condition or to demolish it or (ii) for an order
29 requiring the owner or owners of record to demolish, repair, or
30 enclose the building or to remove garbage, debris, and other
31 hazardous, noxious, or unhealthy substances or materials from
32 the building. It is not a defense to the cause of action that

1 the building is boarded up or otherwise enclosed, although the
2 court may order the defendant to have the building boarded up
3 or otherwise enclosed. Where, upon diligent search, the
4 identity or whereabouts of the owner or owners of the building,
5 including the lien holders of record, is not ascertainable,
6 notice mailed to the person or persons in whose name the real
7 estate was last assessed and the posting of the notice upon the
8 premises sought to be demolished or repaired is sufficient
9 notice under this Section.

10 The hearing upon the application to the circuit court shall
11 be expedited by the court and shall be given precedence over
12 all other suits.

13 The cost of the demolition, repair, enclosure, or removal
14 incurred by the township, by an intervenor, or by a lien holder
15 of record, including court costs, attorney's fees, and other
16 costs related to the enforcement of this Section, is
17 recoverable from the owner or owners of the real estate or the
18 previous owner or both if the property was transferred during
19 the 15-day notice period and is a lien on the real estate if,
20 within 180 days after the repair, demolition, enclosure, or
21 removal, the township, the lien holder of record, or the
22 intervenor who incurred the cost and expense shall file a
23 notice of lien for the cost and expense incurred in the office
24 of the recorder in the county in which the real estate is
25 located or in the office of the registrar of titles of the
26 county if the real estate affected is registered under the
27 Registered Titles (Torrens) Act. The lien becomes effective at
28 the time of filing.

29 The notice must consist of a sworn statement setting out
30 (1) a description of the real estate sufficient for its
31 identification, (2) the amount of money representing the cost
32 and expense incurred, and (3) the date or dates when the cost
33 and expense was incurred by the township, the lien holder of
34 record, or the intervenor. Upon payment of the cost and expense
35 by the owner or persons interested in the property after the
36 notice of lien has been filed, the lien shall be released by

1 the township, the person in whose name the lien has been filed,
2 or the assignee of the lien, and the release may be filed of
3 record as in the case of filing notice of lien. Unless the lien
4 is enforced under subsection (c), the lien may be enforced by
5 foreclosure proceedings as in the case of mortgage foreclosures
6 under Article XV of the Code of Civil Procedure or mechanics'
7 lien foreclosures. An action to foreclose this lien may be
8 commenced at any time after the date of filing of the notice of
9 lien. The costs of foreclosure incurred by the township,
10 including court costs, reasonable attorney's fees, advances to
11 preserve the property, and other costs related to the
12 enforcement of this subsection, plus statutory interest, are a
13 lien on the real estate and are recoverable by the township
14 from the owner or owners of the real estate.

15 All liens arising under this subsection (b) shall be
16 assignable. The assignee of the lien shall have the same power
17 to enforce the lien as the assigning party, except that the
18 lien may not be enforced under subsection (c).

19 (c) In any case where a township has obtained a lien under
20 subsection (b), the township may enforce the lien under this
21 subsection (c) in the same proceeding in which the lien is
22 authorized.

23 A township desiring to enforce a lien under this subsection
24 (c) shall petition the court to retain jurisdiction for
25 foreclosure proceedings under this subsection. Notice of the
26 petition shall be served, by certified or registered mail, on
27 all persons who were served notice under subsection (b). The
28 court shall conduct a hearing on the petition not less than 15
29 days after the notice is served. If the court determines that
30 the requirements of this subsection (c) have been satisfied, it
31 shall grant the petition and retain jurisdiction over the
32 matter until the foreclosure proceeding is completed. The costs
33 of foreclosure incurred by the township, including court costs,
34 reasonable attorneys' fees, advances to preserve the property,
35 and other costs related to the enforcement of this subsection,
36 plus statutory interest, are a lien on the real estate and are

1 recoverable by the township from the owner or owners of the
2 real estate. If the court denies the petition, the township may
3 enforce the lien in a separate action as provided in subsection
4 (b).

5 All persons designated in Section 15-1501 of the Code of
6 Civil Procedure as necessary parties in a mortgage foreclosure
7 action shall be joined as parties before issuance of an order
8 of foreclosure. Persons designated in Section 15-1501 of the
9 Code of Civil Procedure as permissible parties may also be
10 joined as parties in the action.

11 The provisions of Article XV of the Code of Civil Procedure
12 applicable to mortgage foreclosures shall apply to the
13 foreclosure of a lien under this subsection (c), except to the
14 extent that those provisions are inconsistent with this
15 subsection. For purposes of foreclosures of liens under this
16 subsection, however, the redemption period described in
17 subsection (c) of Section 15-1603 of the Code of Civil
18 Procedure shall end 60 days after the date of entry of the
19 order of foreclosure.

20 (d) In addition to any other remedy provided by law, the
21 township board of any township may petition the circuit court
22 to have property declared abandoned under this subsection (d)
23 if:

24 (1) the property has been tax delinquent for 2 or more
25 years or bills for water service for the property have been
26 outstanding for 2 or more years;

27 (2) the property is unoccupied by persons legally in
28 possession; and

29 (3) the property contains a dangerous or unsafe
30 building.

31 All persons having an interest of record in the property,
32 including tax purchasers and beneficial owners of any Illinois
33 land trust having title to the property, shall be named as
34 defendants in the petition and shall be served with process. In
35 addition, service shall be had under Section 2-206 of the Code
36 of Civil Procedure as in other cases affecting property.

1 The township, however, may proceed under this subsection in
2 a proceeding brought under subsection (b). Notice of the
3 petition shall be served by certified or registered mail on all
4 persons who were served notice under subsection (b).

5 If the township proves that the conditions described in
6 this subsection exist and the owner of record of the property
7 does not enter an appearance in the action, or, if title to the
8 property is held by an Illinois land trust, if neither the
9 owner of record nor the owner of the beneficial interest of the
10 trust enters an appearance, the court shall declare the
11 property abandoned.

12 If that determination is made, notice shall be sent by
13 certified or registered mail to all persons having an interest
14 of record in the property, including tax purchasers and
15 beneficial owners of any Illinois land trust having title to
16 the property, stating that title to the property will be
17 transferred to the township unless, within 30 days of the
18 notice, the owner of record enters an appearance in the action,
19 or unless any other person having an interest in the property
20 files with the court a request to demolish the dangerous or
21 unsafe building or to put the building in safe condition.

22 If the owner of record enters an appearance in the action
23 within the 30-day period, the court shall vacate its order
24 declaring the property abandoned. In that case, the township
25 may amend its complaint in order to initiate proceedings under
26 subsection (b).

27 If a request to demolish or repair the building is filed
28 within the 30-day period, the court shall grant permission to
29 the requesting party to demolish the building within 30 days or
30 to restore the building to safe condition within 60 days after
31 the request is granted. An extension of that period for up to
32 60 additional days may be given for good cause. If more than
33 one person with an interest in the property files a timely
34 request, preference shall be given to the person with the lien
35 or other interest of the highest priority.

36 If the requesting party proves to the court that the

1 building has been demolished or put in a safe condition within
2 the period of time granted by the court, the court shall issue
3 a quitclaim judicial deed for the property to the requesting
4 party, conveying only the interest of the owner of record, upon
5 proof of payment to the township of all costs incurred by the
6 township in connection with the action, including but not
7 limited to court costs, attorney's fees, administrative costs,
8 the costs, if any, associated with building enclosure or
9 removal, and receiver's certificates. The interest in the
10 property so conveyed shall be subject to all liens and
11 encumbrances on the property. In addition, if the interest is
12 conveyed to a person holding a certificate of purchase for the
13 property under the Property Tax Code, the conveyance shall be
14 subject to the rights of redemption of all persons entitled to
15 redeem under that Act, including the original owner of record.

16 If no person with an interest in the property files a
17 timely request or if the requesting party fails to demolish the
18 building or put the building in safe condition within the time
19 specified by the court, the township may petition the court to
20 issue a judicial deed for the property to the county. A
21 conveyance by judicial deed shall operate to extinguish all
22 existing ownership interests in, liens on, and other interest
23 in the property, including tax liens.

24 ~~(e) This Section applies only to requests made by townships~~
25 ~~under subsection (a) before January 1, 2006 and proceedings to~~
26 ~~implement or enforce this Section with respect to matters~~
27 ~~related to or arising from those requests.~~

28 (Source: P.A. 92-347, eff. 8-15-01.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.