



Rep. David R. Leitch

Filed: 2/22/2011

09700HB0242ham001

LRB097 06393 KMW 50971 a

1 AMENDMENT TO HOUSE BILL 242

2 AMENDMENT NO. _____. Amend House Bill 242 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 5-1121 as follows:

6 (55 ILCS 5/5-1121)

7 Sec. 5-1121. Demolition, repair, or enclosure.

8 (a) The county board of each county may demolish, repair,
9 or enclose or cause the demolition, repair, or enclosure of
10 dangerous and unsafe buildings or uncompleted and abandoned
11 buildings within the territory of the county, but outside the
12 territory of any municipality, and may remove or cause the
13 removal of garbage, debris, and other hazardous, noxious, or
14 unhealthy substances or materials from those buildings. If a
15 township within the county makes a formal request to the county
16 board as provided in Section 85-50 of the Township Code that

1 the county board commence specified proceedings under this
2 Section with respect to property located within the township
3 but outside the territory of any municipality, then, at the
4 next regular county board meeting occurring at least 10 days
5 after the formal request is made to the county board, the
6 county board shall either commence the requested proceedings or
7 decline to do so (either formally or by failing to commence the
8 proceedings within 60 days after ~~act on~~ the request) and shall
9 notify the township board making the request of the county
10 board's decision. In any county having adopted, by referendum
11 or otherwise, a county health department as provided by
12 Division 5-25 of the Counties Code or its predecessor, the
13 county board of any such county may upon a formal request by
14 the city, village, or incorporated town demolish, repair or
15 cause the demolition or repair of dangerous and unsafe
16 buildings or uncompleted and abandoned buildings within the
17 territory of any city, village, or incorporated town having a
18 population of less than 50,000.

19 The county board shall apply to the circuit court of the
20 county in which the building is located (i) for an order
21 authorizing action to be taken with respect to a building if
22 the owner or owners of the building, including the lien holders
23 of record, after at least 15 days' written notice by mail to do
24 so, have failed to commence proceedings to put the building in
25 a safe condition or to demolish it or (ii) for an order
26 requiring the owner or owners of record to demolish, repair, or

1 enclose the building or to remove garbage, debris, and other
2 hazardous, noxious, or unhealthy substances or materials from
3 the building. It is not a defense to the cause of action that
4 the building is boarded up or otherwise enclosed, although the
5 court may order the defendant to have the building boarded up
6 or otherwise enclosed. Where, upon diligent search, the
7 identity or whereabouts of the owner or owners of the building,
8 including the lien holders of record, is not ascertainable,
9 notice mailed to the person or persons in whose name the real
10 estate was last assessed and the posting of such notice upon
11 the premises sought to be demolished or repaired is sufficient
12 notice under this Section.

13 The hearing upon the application to the circuit court shall
14 be expedited by the court and shall be given precedence over
15 all other suits.

16 The cost of the demolition, repair, enclosure, or removal
17 incurred by the county, by an intervenor, or by a lien holder
18 of record, including court costs, attorney's fees, and other
19 costs related to the enforcement of this Section, is
20 recoverable from the owner or owners of the real estate or the
21 previous owner or both if the property was transferred during
22 the 15 day notice period and is a lien on the real estate; the
23 lien is superior to all prior existing liens and encumbrances,
24 except taxes, if, within 180 days after the repair, demolition,
25 enclosure, or removal, the county, the lien holder of record,
26 or the intervenor who incurred the cost and expense shall file

1 a notice of lien for the cost and expense incurred in the
2 office of the recorder in the county in which the real estate
3 is located or in the office of the registrar of titles of the
4 county if the real estate affected is registered under the
5 Registered Titles (Torrens) Act.

6 The notice must consist of a sworn statement setting out
7 (1) a description of the real estate sufficient for its
8 identification, (2) the amount of money representing the cost
9 and expense incurred, and (3) the date or dates when the cost
10 and expense was incurred by the county, the lien holder of
11 record, or the intervenor. Upon payment of the cost and expense
12 by the owner of or persons interested in the property after the
13 notice of lien has been filed, the lien shall be released by
14 the county, the person in whose name the lien has been filed,
15 or the assignee of the lien, and the release may be filed of
16 record as in the case of filing notice of lien. Unless the lien
17 is enforced under subsection (b), the lien may be enforced by
18 foreclosure proceedings as in the case of mortgage foreclosures
19 under Article XV of the Code of Civil Procedure or mechanics'
20 lien foreclosures. An action to foreclose this lien may be
21 commenced at any time after the date of filing of the notice of
22 lien. The costs of foreclosure incurred by the county,
23 including court costs, reasonable attorney's fees, advances to
24 preserve the property, and other costs related to the
25 enforcement of this subsection, plus statutory interest, are a
26 lien on the real estate and are recoverable by the county from

1 the owner or owners of the real estate.

2 All liens arising under this subsection (a) shall be
3 assignable. The assignee of the lien shall have the same power
4 to enforce the lien as the assigning party, except that the
5 lien may not be enforced under subsection (b).

6 If the appropriate official of any county determines that
7 any dangerous and unsafe building or uncompleted and abandoned
8 building within its territory fulfills the requirements for an
9 action by the county under the Abandoned Housing Rehabilitation
10 Act, the county may petition under that Act in a proceeding
11 brought under this subsection.

12 (b) In any case where a county has obtained a lien under
13 subsection (a), the county may enforce the lien under this
14 subsection (b) in the same proceeding in which the lien is
15 authorized.

16 A county desiring to enforce a lien under this subsection
17 (b) shall petition the court to retain jurisdiction for
18 foreclosure proceedings under this subsection. Notice of the
19 petition shall be served, by certified or registered mail, on
20 all persons who were served notice under subsection (a). The
21 court shall conduct a hearing on the petition not less than 15
22 days after the notice is served. If the court determines that
23 the requirements of this subsection (b) have been satisfied, it
24 shall grant the petition and retain jurisdiction over the
25 matter until the foreclosure proceeding is completed. The costs
26 of foreclosure incurred by the county, including court costs,

1 reasonable attorneys' fees, advances to preserve the property,
2 and other costs related to the enforcement of this subsection,
3 plus statutory interest, are a lien on the real estate and are
4 recoverable by the county from the owner or owners of the real
5 estate. If the court denies the petition, the county may
6 enforce the lien in a separate action as provided in subsection
7 (a).

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

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

23 (c) In addition to any other remedy provided by law, the
24 county board of any county may petition the circuit court to
25 have property declared abandoned under this subsection (c) if:

26 (1) the property has been tax delinquent for 2 or more

1 years or bills for water service for the property have been
2 outstanding for 2 or more years;

3 (2) the property is unoccupied by persons legally in
4 possession; and

5 (3) the property contains a dangerous or unsafe
6 building.

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

13 The county, however, may proceed under this subsection in a
14 proceeding brought under subsection (a). Notice of the petition
15 shall be served by certified or registered mail on all persons
16 who were served notice under subsection (a).

17 If the county proves that the conditions described in this
18 subsection exist and the owner of record of the property does
19 not enter an appearance in the action, or, if title to the
20 property is held by an Illinois land trust, if neither the
21 owner of record nor the owner of the beneficial interest of the
22 trust enters an appearance, the court shall declare the
23 property abandoned.

24 If that determination is made, notice shall be sent by
25 certified or registered mail to all persons having an interest
26 of record in the property, including tax purchasers and

1 beneficial owners of any Illinois land trust having title to
2 the property, stating that title to the property will be
3 transferred to the county unless, within 30 days of the notice,
4 the owner of record enters an appearance in the action, or
5 unless any other person having an interest in the property
6 files with the court a request to demolish the dangerous or
7 unsafe building or to put the building in safe condition.

8 If the owner of record enters an appearance in the action
9 within the 30 day period, the court shall vacate its order
10 declaring the property abandoned. In that case, the county may
11 amend its complaint in order to initiate proceedings under
12 subsection (a).

13 If a request to demolish or repair the building is filed
14 within the 30 day period, the court shall grant permission to
15 the requesting party to demolish the building within 30 days or
16 to restore the building to safe condition within 60 days after
17 the request is granted. An extension of that period for up to
18 60 additional days may be given for good cause. If more than
19 one person with an interest in the property files a timely
20 request, preference shall be given to the person with the lien
21 or other interest of the highest priority.

22 If the requesting party proves to the court that the
23 building has been demolished or put in a safe condition within
24 the period of time granted by the court, the court shall issue
25 a quitclaim judicial deed for the property to the requesting
26 party, conveying only the interest of the owner of record, upon

1 proof of payment to the county of all costs incurred by the
2 county in connection with the action, including but not limited
3 to court costs, attorney's fees, administrative costs, the
4 costs, if any, associated with building enclosure or removal,
5 and receiver's certificates. The interest in the property so
6 conveyed shall be subject to all liens and encumbrances on the
7 property. In addition, if the interest is conveyed to a person
8 holding a certificate of purchase for the property under the
9 Property Tax Code, the conveyance shall be subject to the
10 rights of redemption of all persons entitled to redeem under
11 that Act, including the original owner of record.

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

20 (d) Each county may use the provisions of this subsection
21 to expedite the removal of certain buildings that are a
22 continuing hazard to the community in which they are located.

23 If a residential building is 2 stories or less in height as
24 defined by the county's building code, and the official
25 designated to be in charge of enforcing the county's building
26 code determines that the building is open and vacant and an

1 immediate and continuing hazard to the community in which the
2 building is located, then the official shall be authorized to
3 post a notice not less than 2 feet by 2 feet in size on the
4 front of the building. The notice shall be dated as of the date
5 of the posting and shall state that unless the building is
6 demolished, repaired, or enclosed, and unless any garbage,
7 debris, and other hazardous, noxious, or unhealthy substances
8 or materials are removed so that an immediate and continuing
9 hazard to the community no longer exists, then the building may
10 be demolished, repaired, or enclosed, or any garbage, debris,
11 and other hazardous, noxious, or unhealthy substances or
12 materials may be removed, by the county.

13 Not later than 30 days following the posting of the notice,
14 the county shall do both of the following:

15 (1) Cause to be sent, by certified mail, return receipt
16 requested, a notice to all owners of record of the
17 property, the beneficial owners of any Illinois land trust
18 having title to the property, and all lienholders of record
19 in the property, stating the intent of the county to
20 demolish, repair, or enclose the building or remove any
21 garbage, debris, or other hazardous, noxious, or unhealthy
22 substances or materials if that action is not taken by the
23 owner or owners.

24 (2) Cause to be published, in a newspaper published or
25 circulated in the county where the building is located, a
26 notice setting forth (i) the permanent tax index number and

1 the address of the building, (ii) a statement that the
2 property is open and vacant and constitutes an immediate
3 and continuing hazard to the community, and (iii) a
4 statement that the county intends to demolish, repair, or
5 enclose the building or remove any garbage, debris, or
6 other hazardous, noxious, or unhealthy substances or
7 materials if the owner or owners or lienholders of record
8 fail to do so. This notice shall be published for 3
9 consecutive days.

10 A person objecting to the proposed actions of the county
11 board may file his or her objection in an appropriate form in a
12 court of competent jurisdiction.

13 If the building is not demolished, repaired, or enclosed,
14 or the garbage, debris, or other hazardous, noxious, or
15 unhealthy substances or materials are not removed, within 30
16 days of mailing the notice to the owners of record, the
17 beneficial owners of any Illinois land trust having title to
18 the property, and all lienholders of record in the property, or
19 within 30 days of the last day of publication of the notice,
20 whichever is later, the county board shall have the power to
21 demolish, repair, or enclose the building or to remove any
22 garbage, debris, or other hazardous, noxious, or unhealthy
23 substances or materials.

24 The county may proceed to demolish, repair, or enclose a
25 building or remove any garbage, debris, or other hazardous,
26 noxious, or unhealthy substances or materials under this

1 subsection within a 120-day period following the date of the
2 mailing of the notice if the appropriate official determines
3 that the demolition, repair, enclosure, or removal of any
4 garbage, debris, or other hazardous, noxious, or unhealthy
5 substances or materials is necessary to remedy the immediate
6 and continuing hazard. If, however, before the county proceeds
7 with any of the actions authorized by this subsection, any
8 person has sought a hearing under this subsection before a
9 court and has served a copy of the complaint on the chief
10 executive officer of the county, then the county shall not
11 proceed with the demolition, repair, enclosure, or removal of
12 garbage, debris, or other substances until the court determines
13 that that action is necessary to remedy the hazard and issues
14 an order authorizing the county to do so.

15 Following the demolition, repair, or enclosure of a
16 building, or the removal of garbage, debris, or other
17 hazardous, noxious, or unhealthy substances or materials under
18 this subsection, the county may file a notice of lien against
19 the real estate for the cost of the demolition, repair,
20 enclosure, or removal within 180 days after the repair,
21 demolition, enclosure, or removal occurred, for the cost and
22 expense incurred, in the office of the recorder in the county
23 in which the real estate is located or in the office of the
24 registrar of titles of the county if the real estate affected
25 is registered under the Registered Titles (Torrens) Act. The
26 notice of lien shall consist of a sworn statement setting forth

1 (i) a description of the real estate, such as the address or
2 other description of the property, sufficient for its
3 identification; (ii) the expenses incurred by the county in
4 undertaking the remedial actions authorized under this
5 subsection; (iii) the date or dates the expenses were incurred
6 by the county; (iv) a statement by the official responsible for
7 enforcing the building code that the building was open and
8 vacant and constituted an immediate and continuing hazard to
9 the community; (v) a statement by the official that the
10 required sign was posted on the building, that notice was sent
11 by certified mail to the owners of record, and that notice was
12 published in accordance with this subsection; and (vi) a
13 statement as to when and where the notice was published. The
14 lien authorized by this subsection may thereafter be released
15 or enforced by the county as provided in subsection (a).

16 (e) In any case where a county has obtained a lien under
17 subsection (a), the county may also bring an action for a money
18 judgment against the owner or owners of the real estate in the
19 amount of the lien in the same manner as provided for bringing
20 causes of action in Article II of the Code of Civil Procedure
21 and, upon obtaining a judgment, file a judgment lien against
22 all of the real estate of the owner or owners and enforce that
23 lien as provided for in Article XII of the Code of Civil
24 Procedure.

25 (Source: P.A. 91-533, eff. 8-13-99; 91-561, eff. 1-1-00;
26 92-347, eff. 8-15-01.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".