



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3350

by Rep. Donald L. Moffitt

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-90

65 ILCS 5/11-31-1

from Ch. 24, par. 11-31-1

Amends the Illinois Municipal Code. Provides that the corporate authorities of a municipality may petition to have property declared abandoned if the property contains a dangerous or unsafe building or the property is not being maintained, as evidenced by more than 3 code violation abatements in a 12 month period. Amends the Property Tax Code. Provides that a county may convey its interest in vacant non-farm property to any adjacent property owner for no consideration.

LRB099 09855 HLH 30067 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 Property Tax Code is amended by changing  
5 Section 21-90 as follows:

6 (35 ILCS 200/21-90)

7 Sec. 21-90. Purchase and sale by county; distribution of  
8 proceeds. When any property is delinquent, or is forfeited for  
9 each of 2 or more years, and is offered for sale under any of  
10 the provisions of this Code, the County Board of the County in  
11 which the property is located, in its discretion, may bid, or,  
12 in the case of forfeited property, may apply to purchase it, in  
13 the name of the County as trustee for all taxing districts  
14 having an interest in the property's taxes or special  
15 assessments for the nonpayment of which the property is sold.  
16 The presiding officer of the county board, with the advice and  
17 consent of the Board, may appoint on its behalf some officer or  
18 person to attend such sales and bid or, in the case of  
19 forfeited property, to apply to the county clerk to purchase.  
20 The County shall apply on the bid or purchase the unpaid taxes  
21 and special assessments due upon the property. No cash need be  
22 paid. The County shall take all steps necessary to acquire  
23 title to the property and may manage and operate the property.

1 When a county, or other taxing district within the county, is a  
2 petitioner for a tax deed, no filing fee shall be required.

3 When a county or other taxing district within the county is the  
4 petitioner for a tax deed, one petition may be filed including  
5 all parcels that are tax delinquent within the county or taxing  
6 district, and any publication made under Section 22-20 of this  
7 Code may combine all such parcels within a single notice. The  
8 notice shall list the street or common address, if known, of  
9 the parcels for informational purposes. The county, as tax  
10 creditor and as trustee for other tax creditors, or other  
11 taxing district within the county, shall not be required to  
12 allege and prove that all taxes and special assessments which  
13 become due and payable after the sale to the county have been  
14 paid nor shall the county be required to pay the subsequently  
15 accruing taxes or special assessments at any time. The county  
16 board or its designee may prohibit the county collector from  
17 including the property in the tax sale of one or more  
18 subsequent years. The lien of taxes and special assessments  
19 which become due and payable after a sale to a county shall  
20 merge in the fee title of the county, or other taxing district  
21 within the county, on the issuance of a deed.

22 The County may sell or assign the property so acquired, or  
23 the certificate of purchase to it, to any party, including  
24 taxing districts. The proceeds of that sale or assignment, less  
25 all costs of the county incurred in the acquisition and sale or  
26 assignment of the property, shall be distributed to the taxing

1 districts in proportion to their respective interests therein.

2 The county may convey its interest in any vacant non-farm  
3 property of an irregular shape or size acquired under this  
4 Section, including the certificate of purchase to that  
5 property, to any adjacent property owner for no consideration,  
6 provided that all adjacent property owners are notified by  
7 certified mail of the county's intent to convey the property at  
8 least 60 days prior to the conveyance.

9 Under Sections 21-110, 21-115, 21-120 and 21-405, a County  
10 may bid or purchase only in the absence of other bidders.

11 (Source: P.A. 88-455; 88-535; 89-412, eff. 11-17-95.)

12 Section 10. The Illinois Municipal Code is amended by  
13 changing Section 11-31-1 as follows:

14 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

15 Sec. 11-31-1. Demolition, repair, enclosure, or  
16 remediation.

17 (a) The corporate authorities of each municipality may  
18 demolish, repair, or enclose or cause the demolition, repair,  
19 or enclosure of dangerous and unsafe buildings or uncompleted  
20 and abandoned buildings within the territory of the  
21 municipality and may remove or cause the removal of garbage,  
22 debris, and other hazardous, noxious, or unhealthy substances  
23 or materials from those buildings. In any county having adopted  
24 by referendum or otherwise a county health department as

1 provided by Division 5-25 of the Counties Code or its  
2 predecessor, the county board of that county may exercise those  
3 powers with regard to dangerous and unsafe buildings or  
4 uncompleted and abandoned buildings within the territory of any  
5 city, village, or incorporated town having less than 50,000  
6 population.

7 The corporate authorities shall apply to the circuit court  
8 of the county in which the building is located (i) for an order  
9 authorizing action to be taken with respect to a building if  
10 the owner or owners of the building, including the lien holders  
11 of record, after at least 15 days' written notice by mail so to  
12 do, have failed to put the building in a safe condition or to  
13 demolish it or (ii) for an order requiring the owner or owners  
14 of record to demolish, repair, or enclose the building or to  
15 remove garbage, debris, and other hazardous, noxious, or  
16 unhealthy substances or materials from the building. It is not  
17 a defense to the cause of action that the building is boarded  
18 up or otherwise enclosed, although the court may order the  
19 defendant to have the building boarded up or otherwise  
20 enclosed. Where, upon diligent search, the identity or  
21 whereabouts of the owner or owners of the building, including  
22 the lien holders of record, is not ascertainable, notice mailed  
23 to the person or persons in whose name the real estate was last  
24 assessed is sufficient notice under this Section.

25 The hearing upon the application to the circuit court shall  
26 be expedited by the court and shall be given precedence over

1 all other suits. Any person entitled to bring an action under  
2 subsection (b) shall have the right to intervene in an action  
3 brought under this Section.

4 The cost of the demolition, repair, enclosure, or removal  
5 incurred by the municipality, by an intervenor, or by a lien  
6 holder of record, including court costs, attorney's fees, and  
7 other costs related to the enforcement of this Section, is  
8 recoverable from the owner or owners of the real estate or the  
9 previous owner or both if the property was transferred during  
10 the 15 day notice period and is a lien on the real estate; the  
11 lien is superior to all prior existing liens and encumbrances,  
12 except taxes, if, within 180 days after the repair, demolition,  
13 enclosure, or removal, the municipality, the lien holder of  
14 record, or the intervenor who incurred the cost and expense  
15 shall file a notice of lien for the cost and expense incurred  
16 in the office of the recorder in the county in which the real  
17 estate is located or in the office of the registrar of titles  
18 of the county if the real estate affected is registered under  
19 the Registered Titles (Torrens) Act.

20 The notice must consist of a sworn statement setting out  
21 (1) a description of the real estate sufficient for its  
22 identification, (2) the amount of money representing the cost  
23 and expense incurred, and (3) the date or dates when the cost  
24 and expense was incurred by the municipality, the lien holder  
25 of record, or the intervenor. Upon payment of the cost and  
26 expense by the owner of or persons interested in the property

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

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

21 If the appropriate official of any municipality determines  
22 that any dangerous and unsafe building or uncompleted and  
23 abandoned building within its territory fulfills the  
24 requirements for an action by the municipality under the  
25 Abandoned Housing Rehabilitation Act, the municipality may  
26 petition under that Act in a proceeding brought under this

1 subsection.

2 (b) Any owner or tenant of real property within 1200 feet  
3 in any direction of any dangerous or unsafe building located  
4 within the territory of a municipality with a population of  
5 500,000 or more may file with the appropriate municipal  
6 authority a request that the municipality apply to the circuit  
7 court of the county in which the building is located for an  
8 order permitting the demolition, removal of garbage, debris,  
9 and other noxious or unhealthy substances and materials from,  
10 or repair or enclosure of the building in the manner prescribed  
11 in subsection (a) of this Section. If the municipality fails to  
12 institute an action in circuit court within 90 days after the  
13 filing of the request, the owner or tenant of real property  
14 within 1200 feet in any direction of the building may institute  
15 an action in circuit court seeking an order compelling the  
16 owner or owners of record to demolish, remove garbage, debris,  
17 and other noxious or unhealthy substances and materials from,  
18 repair or enclose or to cause to be demolished, have garbage,  
19 debris, and other noxious or unhealthy substances and materials  
20 removed from, repaired, or enclosed the building in question. A  
21 private owner or tenant who institutes an action under the  
22 preceding sentence shall not be required to pay any fee to the  
23 clerk of the circuit court. The cost of repair, removal,  
24 demolition, or enclosure shall be borne by the owner or owners  
25 of record of the building. In the event the owner or owners of  
26 record fail to demolish, remove garbage, debris, and other



1 noxious or unhealthy substances and materials from, repair, or  
2 enclose the building within 90 days of the date the court  
3 entered its order, the owner or tenant who instituted the  
4 action may request that the court join the municipality as a  
5 party to the action. The court may order the municipality to  
6 demolish, remove materials from, repair, or enclose the  
7 building, or cause that action to be taken upon the request of  
8 any owner or tenant who instituted the action or upon the  
9 municipality's request. The municipality may file, and the  
10 court may approve, a plan for rehabilitating the building in  
11 question. A court order authorizing the municipality to  
12 demolish, remove materials from, repair, or enclose a building,  
13 or cause that action to be taken, shall not preclude the court  
14 from adjudging the owner or owners of record of the building in  
15 contempt of court due to the failure to comply with the order  
16 to demolish, remove garbage, debris, and other noxious or  
17 unhealthy substances and materials from, repair, or enclose the  
18 building.

19 If a municipality or a person or persons other than the  
20 owner or owners of record pay the cost of demolition, removal  
21 of garbage, debris, and other noxious or unhealthy substances  
22 and materials, repair, or enclosure pursuant to a court order,  
23 the cost, including court costs, attorney's fees, and other  
24 costs related to the enforcement of this subsection, is  
25 recoverable from the owner or owners of the real estate and is  
26 a lien on the real estate; the lien is superior to all prior

1 existing liens and encumbrances, except taxes, if, within 180  
2 days after the repair, removal, demolition, or enclosure, the  
3 municipality or the person or persons who paid the costs of  
4 demolition, removal, repair, or enclosure shall file a notice  
5 of lien of the cost and expense incurred in the office of the  
6 recorder in the county in which the real estate is located or  
7 in the office of the registrar of the county if the real estate  
8 affected is registered under the Registered Titles (Torrens)  
9 Act. The notice shall be in a form as is provided in subsection  
10 (a). An owner or tenant who institutes an action in circuit  
11 court seeking an order to compel the owner or owners of record  
12 to demolish, remove materials from, repair, or enclose any  
13 dangerous or unsafe building, or to cause that action to be  
14 taken under this subsection may recover court costs and  
15 reasonable attorney's fees for instituting the action from the  
16 owner or owners of record of the building. Upon payment of the  
17 costs and expenses by the owner of or a person interested in  
18 the property after the notice of lien has been filed, the lien  
19 shall be released by the municipality or the person in whose  
20 name the lien has been filed or his or her assignee, and the  
21 release may be filed of record as in the case of filing a  
22 notice of lien. Unless the lien is enforced under subsection  
23 (c), the lien may be enforced by foreclosure proceedings as in  
24 the case of mortgage foreclosures under Article XV of the Code  
25 of Civil Procedure or mechanics' lien foreclosures. An action  
26 to foreclose this lien may be commenced at any time after the

1 date of filing of the notice of lien. The costs of foreclosure  
2 incurred by the municipality, including court costs,  
3 reasonable attorneys' fees, advances to preserve the property,  
4 and other costs related to the enforcement of this subsection,  
5 plus statutory interest, are a lien on the real estate and are  
6 recoverable by the municipality from the owner or owners of the  
7 real estate.

8 All liens arising under the terms of this subsection (b)  
9 shall be assignable. The assignee of the lien shall have the  
10 same power to enforce the lien as the assigning party, except  
11 that the lien may not be enforced under subsection (c).

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

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

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

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

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

24 (d) In addition to any other remedy provided by law, the  
25 corporate authorities of any municipality may petition the  
26 circuit court to have property declared abandoned under this

1 subsection (d) if:

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

5 (2) the property is unoccupied by persons legally in  
6 possession; and

7 (3) the property contains a dangerous or unsafe  
8 building for reasons specified in the petition, or the  
9 property is not being maintained, as evidenced by the fact  
10 that the corporate authorities of the municipality have  
11 abated a code violation on the property, as defined under  
12 Division 31.1 of this Article, more than 3 times within the  
13 most recent 12 month period.

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

20 The municipality, however, may proceed under this  
21 subsection in a proceeding brought under subsection (a) or (b).  
22 Notice of the petition shall be served in person or by  
23 certified or registered mail on all persons who were served  
24 notice under subsection (a) or (b).

25 If the municipality proves that the conditions described in  
26 this subsection exist and (i) the owner of record of the

1 property does not enter an appearance in the action, or, if  
2 title to the property is held by an Illinois land trust, if  
3 neither the owner of record nor the owner of the beneficial  
4 interest of the trust enters an appearance, or (ii) if the  
5 owner of record or the beneficiary of a land trust, if title to  
6 the property is held by an Illinois land trust, enters an  
7 appearance and specifically waives his or her rights under this  
8 subsection (d), the court shall declare the property abandoned.  
9 Notwithstanding any waiver, the municipality may move to  
10 dismiss its petition at any time. In addition, any waiver in a  
11 proceeding under this subsection (d) does not serve as a waiver  
12 for any other proceeding under law or equity.

13 If that determination is made, notice shall be sent in  
14 person or by certified or registered mail to all persons having  
15 an interest of record in the property, including tax purchasers  
16 and beneficial owners of any Illinois land trust having title  
17 to the property, stating that title to the property will be  
18 transferred to the municipality unless, within 30 days of the  
19 notice, the owner of record or any other person having an  
20 interest in the property files with the court a request to  
21 demolish the dangerous or unsafe building or to put the  
22 building in safe condition, or unless the owner of record  
23 enters an appearance and proves that the owner does not intend  
24 to abandon the property.

25 If the owner of record enters an appearance in the action  
26 within the 30 day period, but does not at that time file with

1 the court a request to demolish the dangerous or unsafe  
2 building or to put the building in safe condition, or  
3 specifically waive his or her rights under this subsection (d),  
4 the court shall vacate its order declaring the property  
5 abandoned if it determines that the owner of record does not  
6 intend to abandon the property. In that case, the municipality  
7 may amend its complaint in order to initiate proceedings under  
8 subsection (a), or it may request that the court order the  
9 owner to demolish the building or repair the dangerous or  
10 unsafe conditions of the building alleged in the petition or  
11 seek the appointment of a receiver or other equitable relief to  
12 correct the conditions at the property. The powers and rights  
13 of a receiver appointed under this subsection (d) shall include  
14 all of the powers and rights of a receiver appointed under  
15 Section 11-31-2 of this Code.

16 If a request to demolish or repair the building is filed  
17 within the 30 day period, the court shall grant permission to  
18 the requesting party to demolish the building within 30 days or  
19 to restore the building to safe condition within 60 days after  
20 the request is granted. An extension of that period for up to  
21 60 additional days may be given for good cause. If more than  
22 one person with an interest in the property files a timely  
23 request, preference shall be given to the owner of record if  
24 the owner filed a request or, if the owner did not, the person  
25 with the lien or other interest of the highest priority.

26 If the requesting party (other than the owner of record)

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

23 If the owner of record has not entered an appearance and  
24 proven that the owner did not intend to abandon the property,  
25 and if no person with an interest in the property files a  
26 timely request or if the requesting party fails to demolish the



1 building or put the building in safe condition within the time  
2 specified by the court, the municipality may petition the court  
3 to issue a judicial deed for the property to the municipality.  
4 A conveyance by judicial deed shall operate to extinguish all  
5 existing ownership interests in, liens on, and other interest  
6 in the property, including tax liens, and shall extinguish the  
7 rights and interests of any and all holders of a bona fide  
8 certificate of purchase of the property for delinquent taxes.  
9 Any such bona fide certificate of purchase holder shall be  
10 entitled to a sale in error as prescribed under Section 21-310  
11 of the Property Tax Code.

12 (e) Each municipality may use the provisions of this  
13 subsection to expedite the removal of certain buildings that  
14 are a continuing hazard to the community in which they are  
15 located.

16 If a residential or commercial building is 3 stories or  
17 less in height as defined by the municipality's building code,  
18 and the corporate official designated to be in charge of  
19 enforcing the municipality's building code determines that the  
20 building is open and vacant and an immediate and continuing  
21 hazard to the community in which the building is located, then  
22 the official shall be authorized to post a notice not less than  
23 2 feet by 2 feet in size on the front of the building. The  
24 notice shall be dated as of the date of the posting and shall  
25 state that unless the building is demolished, repaired, or  
26 enclosed, and unless any garbage, debris, and other hazardous,

1 noxious, or unhealthy substances or materials are removed so  
2 that an immediate and continuing hazard to the community no  
3 longer exists, then the building may be demolished, repaired,  
4 or enclosed, or any garbage, debris, and other hazardous,  
5 noxious, or unhealthy substances or materials may be removed,  
6 by the municipality.

7 Not later than 30 days following the posting of the notice,  
8 the municipality shall do all of the following:

9 (1) Cause to be sent, by certified mail, return receipt  
10 requested, a Notice to Remediate to all owners of record of  
11 the property, the beneficial owners of any Illinois land  
12 trust having title to the property, and all lienholders of  
13 record in the property, stating the intent of the  
14 municipality to demolish, repair, or enclose the building  
15 or remove any garbage, debris, or other hazardous, noxious,  
16 or unhealthy substances or materials if that action is not  
17 taken by the owner or owners.

18 (2) Cause to be published, in a newspaper published or  
19 circulated in the municipality where the building is  
20 located, a notice setting forth (i) the permanent tax index  
21 number and the address of the building, (ii) a statement  
22 that the property is open and vacant and constitutes an  
23 immediate and continuing hazard to the community, and (iii)  
24 a statement that the municipality intends to demolish,  
25 repair, or enclose the building or remove any garbage,  
26 debris, or other hazardous, noxious, or unhealthy

1 substances or materials if the owner or owners or  
2 lienholders of record fail to do so. This notice shall be  
3 published for 3 consecutive days.

4 (3) Cause to be recorded the Notice to Remediate mailed  
5 under paragraph (1) in the office of the recorder in the  
6 county in which the real estate is located or in the office  
7 of the registrar of titles of the county if the real estate  
8 is registered under the Registered Title (Torrens) Act.

9 Any person or persons with a current legal or equitable  
10 interest in the property objecting to the proposed actions of  
11 the corporate authorities may file his or her objection in an  
12 appropriate form in a 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 corporate authorities shall have the  
21 power to demolish, repair, or enclose the building or to remove  
22 any garbage, debris, or other hazardous, noxious, or unhealthy  
23 substances or materials.

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

1 this subsection within a 120-day period following the date of  
2 the mailing of the notice if the appropriate official  
3 determines that the demolition, repair, enclosure, or removal  
4 of any garbage, debris, or other hazardous, noxious, or  
5 unhealthy substances or materials is necessary to remedy the  
6 immediate and continuing hazard. If, however, before the  
7 municipality proceeds with any of the actions authorized by  
8 this subsection, any person with a legal or equitable interest  
9 in the property has sought a hearing under this subsection  
10 before a court and has served a copy of the complaint on the  
11 chief executive officer of the municipality, then the  
12 municipality shall not proceed with the demolition, repair,  
13 enclosure, or removal of garbage, debris, or other substances  
14 until the court determines that that action is necessary to  
15 remedy the hazard and issues an order authorizing the  
16 municipality to do so. If the court dismisses the action for  
17 want of prosecution, the municipality must send the objector a  
18 copy of the dismissal order and a letter stating that the  
19 demolition, repair, enclosure, or removal of garbage, debris,  
20 or other substances will proceed unless, within 30 days after  
21 the copy of the order and the letter are mailed, the objector  
22 moves to vacate the dismissal and serves a copy of the motion  
23 on the chief executive officer of the municipality.  
24 Notwithstanding any other law to the contrary, if the objector  
25 does not file a motion and give the required notice, if the  
26 motion is denied by the court, or if the action is again

1 dismissed for want of prosecution, then the dismissal is with  
2 prejudice and the demolition, repair, enclosure, or removal may  
3 proceed forthwith.

4       Following the demolition, repair, or enclosure of a  
5 building, or the removal of garbage, debris, or other  
6 hazardous, noxious, or unhealthy substances or materials under  
7 this subsection, the municipality may file a notice of lien  
8 against the real estate for the cost of the demolition, repair,  
9 enclosure, or removal within 180 days after the repair,  
10 demolition, enclosure, or removal occurred, for the cost and  
11 expense incurred, in the office of the recorder in the county  
12 in which the real estate is located or in the office of the  
13 registrar of titles of the county if the real estate affected  
14 is registered under the Registered Titles (Torrens) Act; this  
15 lien has priority over the interests of those parties named in  
16 the Notice to Remediate mailed under paragraph (1), but not  
17 over the interests of third party purchasers or encumbrancers  
18 for value who obtained their interests in the property before  
19 obtaining actual or constructive notice of the lien. The notice  
20 of lien shall consist of a sworn statement setting forth (i) a  
21 description of the real estate, such as the address or other  
22 description of the property, sufficient for its  
23 identification; (ii) the expenses incurred by the municipality  
24 in undertaking the remedial actions authorized under this  
25 subsection; (iii) the date or dates the expenses were incurred  
26 by the municipality; (iv) a statement by the corporate official

1 responsible for enforcing the building code that the building  
2 was open and vacant and constituted an immediate and continuing  
3 hazard to the community; (v) a statement by the corporate  
4 official that the required sign was posted on the building,  
5 that notice was sent by certified mail to the owners of record,  
6 and that notice was published in accordance with this  
7 subsection; and (vi) a statement as to when and where the  
8 notice was published. The lien authorized by this subsection  
9 may thereafter be released or enforced by the municipality as  
10 provided in subsection (a).

11 (f) The corporate authorities of each municipality may  
12 remove or cause the removal of, or otherwise environmentally  
13 remediate hazardous substances and petroleum products on, in,  
14 or under any abandoned and unsafe property within the territory  
15 of a municipality. In addition, where preliminary evidence  
16 indicates the presence or likely presence of a hazardous  
17 substance or a petroleum product or a release or a substantial  
18 threat of a release of a hazardous substance or a petroleum  
19 product on, in, or under the property, the corporate  
20 authorities of the municipality may inspect the property and  
21 test for the presence or release of hazardous substances and  
22 petroleum products. In any county having adopted by referendum  
23 or otherwise a county health department as provided by Division  
24 5-25 of the Counties Code or its predecessor, the county board  
25 of that county may exercise the above-described powers with  
26 regard to property within the territory of any city, village,

1 or incorporated town having less than 50,000 population.

2 For purposes of this subsection (f):

3 (1) "property" or "real estate" means all real  
4 property, whether or not improved by a structure;

5 (2) "abandoned" means;

6 (A) the property has been tax delinquent for 2 or  
7 more years;

8 (B) the property is unoccupied by persons legally  
9 in possession; and

10 (3) "unsafe" means property that presents an actual or  
11 imminent threat to public health and safety caused by the  
12 release of hazardous substances; and

13 (4) "hazardous substances" means the same as in Section  
14 3.215 of the Environmental Protection Act.

15 The corporate authorities shall apply to the circuit court  
16 of the county in which the property is located (i) for an order  
17 allowing the municipality to enter the property and inspect and  
18 test substances on, in, or under the property; or (ii) for an  
19 order authorizing the corporate authorities to take action with  
20 respect to remediation of the property if conditions on the  
21 property, based on the inspection and testing authorized in  
22 paragraph (i), indicate the presence of hazardous substances or  
23 petroleum products. Remediation shall be deemed complete for  
24 purposes of paragraph (ii) above when the property satisfies  
25 Tier I, II, or III remediation objectives for the property's  
26 most recent usage, as established by the Environmental

1 Protection Act, and the rules and regulations promulgated  
2 thereunder. Where, upon diligent search, the identity or  
3 whereabouts of the owner or owners of the property, including  
4 the lien holders of record, is not ascertainable, notice mailed  
5 to the person or persons in whose name the real estate was last  
6 assessed is sufficient notice under this Section.

7 The court shall grant an order authorizing testing under  
8 paragraph (i) above upon a showing of preliminary evidence  
9 indicating the presence or likely presence of a hazardous  
10 substance or a petroleum product or a release of or a  
11 substantial threat of a release of a hazardous substance or a  
12 petroleum product on, in, or under abandoned property. The  
13 preliminary evidence may include, but is not limited to,  
14 evidence of prior use, visual site inspection, or records of  
15 prior environmental investigations. The testing authorized by  
16 paragraph (i) above shall include any type of investigation  
17 which is necessary for an environmental professional to  
18 determine the environmental condition of the property,  
19 including but not limited to performance of soil borings and  
20 groundwater monitoring. The court shall grant a remediation  
21 order under paragraph (ii) above where testing of the property  
22 indicates that it fails to meet the applicable remediation  
23 objectives. The hearing upon the application to the circuit  
24 court shall be expedited by the court and shall be given  
25 precedence over all other suits.

26 The cost of the inspection, testing, or remediation



1 incurred by the municipality or by a lien holder of record,  
2 including court costs, attorney's fees, and other costs related  
3 to the enforcement of this Section, is a lien on the real  
4 estate; except that in any instances where a municipality  
5 incurs costs of inspection and testing but finds no hazardous  
6 substances or petroleum products on the property that present  
7 an actual or imminent threat to public health and safety, such  
8 costs are not recoverable from the owners nor are such costs a  
9 lien on the real estate. The lien is superior to all prior  
10 existing liens and encumbrances, except taxes and any lien  
11 obtained under subsection (a) or (e), if, within 180 days after  
12 the completion of the inspection, testing, or remediation, the  
13 municipality or the lien holder of record who incurred the cost  
14 and expense shall file a notice of lien for the cost and  
15 expense incurred in the office of the recorder in the county in  
16 which the real estate is located or in the office of the  
17 registrar of titles of the county if the real estate affected  
18 is registered under the Registered Titles (Torrens) Act.

19 The notice must consist of a sworn statement setting out  
20 (i) a description of the real estate sufficient for its  
21 identification, (ii) the amount of money representing the cost  
22 and expense incurred, and (iii) the date or dates when the cost  
23 and expense was incurred by the municipality or the lien holder  
24 of record. Upon payment of the lien amount by the owner of or  
25 persons interested in the property after the notice of lien has  
26 been filed, a release of lien shall be issued by the

1 municipality, 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.

4 The lien may be enforced under subsection (c) or 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; provided that where the lien is enforced by  
8 foreclosure under subsection (c) or under either statute, the  
9 municipality may not proceed against the other assets of the  
10 owner or owners of the real estate for any costs that otherwise  
11 would be recoverable under this Section but that remain  
12 unsatisfied after foreclosure except where such additional  
13 recovery is authorized by separate environmental laws. An  
14 action to foreclose this lien may be commenced at any time  
15 after the date of filing of the notice of lien. The costs of  
16 foreclosure incurred by the municipality, including court  
17 costs, reasonable attorney's fees, advances to preserve the  
18 property, and other costs related to the enforcement of this  
19 subsection, plus statutory interest, are a lien on the real  
20 estate.

21 All liens arising under this subsection (f) shall be  
22 assignable. The assignee of the lien shall have the same power  
23 to enforce the lien as the assigning party, except that the  
24 lien may not be enforced under subsection (c).

25 (g) In any case where a municipality has obtained a lien  
26 under subsection (a), the municipality may also bring an action

1 for a money judgment against the owner or owners of the real  
2 estate in the amount of the lien in the same manner as provided  
3 for bringing causes of action in Article II of the Code of  
4 Civil Procedure and, upon obtaining a judgment, file a judgment  
5 lien against all of the real estate of the owner or owners and  
6 enforce that lien as provided for in Article XII of the Code of  
7 Civil Procedure.

8 (Source: P.A. 95-331, eff. 8-21-07; 95-931, eff. 1-1-09.)