

[First Reprint]
ASSEMBLY, No. 3772
STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED FEBRUARY 22, 2024

Sponsored by:
Assemblywoman BARBARA MCCANN STAMATO
District 31 (Hudson)
Assemblyman WILLIAM B. SAMPSON, IV
District 31 (Hudson)
Assemblywoman YVONNE LOPEZ
District 19 (Middlesex)

Co-Sponsored by:
Assemblymen McGuckin, Kanitra, Rodriguez, Assemblywoman Swift,
Assemblyman Hutchison, Assemblywoman N.Munoz, Assemblymen
Wimberly and Atkins

SYNOPSIS
Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

CURRENT VERSION OF TEXT
As reported by the Assembly Appropriations Committee on June 24, 2024, with amendments.

AN ACT revising the process for a property tax lien holder to foreclose the right to redeem a property tax lien, amending various parts of the statutory law, and supplementing chapter 5 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-104.29 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.54:5-33 is amended to read as follows:

54:5-33. a. Payment for the sale shall be made before the conclusion of the sale, or the property shall be resold. Any premium payment shall be held by the collector and returned to the purchaser of the fee if and when redemption is made. If redemption is not made within five years from date of sale the premium payment shall be turned over to the treasurer of the municipality and become a part of the funds of the municipality. In the event that a petition of bankruptcy has been filed by the property owner, the five year limitation shall be extended for each day that the foreclosure action is precluded by that bankruptcy filing.

b. ¹[If the tax sale certificate is redeemed through] In the event a property is required to be sold at¹ a judicial sale as in the manner of the foreclosure of a mortgage or ¹[through]¹ an Internet auction through the office of the county sheriff, ¹[and the redemption is made] the premium shall be refunded to the lienholder if, ¹ within five years of the date of the tax sale, ¹[the tax collector shall refund the premium to the holder of the tax sale certificate] the writ of execution is sent to the county sheriff's office to schedule the judicial sale or Internet auction.¹

In the event that the holder of the tax sale certificate, or an assignee, is the successful bidder at the judicial sale ¹[as in the manner of the foreclosure of a mortgage]¹ or ¹[an] the¹ Internet auction ¹[through the office of the county sheriff]¹, the tax collector shall not refund any premium.

¹Any premium that is due to escheat to the municipality in 2024 shall be extended one year.¹

(cf: P.L.2009, c.320, s.7)

¹2. R.S.54:5-86 is amended to read as follows:

54:5-86. a. When the municipality is the purchaser of a tax sale certificate, the municipality, or its assignee or transferee, may, at any time after the expiration of the term of six months from the date of sale, institute an action to foreclose the right of

redemption. Except as provided in subsection a. of section 39 of P.L.1996, c.62 (C.55:19-58) or as provided in subsection b. of this section, for all other persons that do not acquire a tax sale certificate from a municipality, an action to foreclose the right of redemption may be instituted at any time after the expiration of the term of two years from the date of sale of the tax sale certificate. On instituting the action the right to redeem shall exist and continue until barred by the judgment of the Superior Court, except as set forth in R.S.54:5-87.

b. Any person or municipality holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may at any time file an action with the Superior Court in the county wherein said municipality is situate, demanding that the right of redemption on such property be barred, pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall include a certification by the public officer or the tax collector that the property is abandoned, provided pursuant to subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate holder has unsuccessfully sought such certification from the public officer or tax collector, as the case may be, the certificate holder may submit to the court evidence that the property is abandoned, accompanied by a report and sworn statement by an individual holding appropriate licensure or professional qualifications, and shall provide a copy of those documents submitted to the court to the public officer and the tax collector. On the basis of this submission and any submission provided by the public officer or tax collector, as the case may be, the court shall determine whether the property meets the definition of abandoned property.

c. Any person holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may enter upon that property at any time after written notice to the owner by certified mail return receipt requested in order to make repairs, or abate, remove or correct any condition harmful to the public health, safety and welfare, or any condition that is materially reducing the value of the property.

d. Any sums incurred or advanced pursuant to subsection c. of this section may be added to the unpaid balance due the holder of the tax sale certificate at the statutory interest rate for subsequent liens.¹

(cf: P.L.2015, c.16, s.1)

-

¹[2.] ^{3.}¹ R.S.54:5-87 is amended to read as follows:

54:5-87. a. The Superior Court, in an action to foreclose the right of redemption ¹brought pursuant to subsection b. of R.S.54:5-86¹, may give full and complete relief under this chapter, in accordance with other statutory authority of the court, to bar the right of redemption¹, to bar claims to surplus equity,¹ and to foreclose all prior or subsequent alienations and descents of the lands and encumbrances thereon, except subsequent municipal liens, and to adjudge an absolute and indefeasible estate of inheritance in fee simple, to be vested in the purchaser. The judgment shall be final upon the defendants, their heirs, devisees and personal representatives, and their or any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest and no application shall be entertained to reopen the judgment after three months from the date thereof, and then only upon the grounds of lack of jurisdiction or fraud in the conduct of the suit. Such judgment and recording thereof shall not be deemed a sale, transfer, or conveyance of title or interest to the subject property under the provisions of the "Uniform Voidable Transactions Act," R.S.25:2-20 et seq. ¹An action brought pursuant to subsection b. of R.S.54:5-86 shall not require a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff.¹

b. In ¹an action brought pursuant to subsection a. of R.S.54:5-86, in¹ order to preserve any equity that may exist in the property being foreclosed, the owner, or the owner's heirs, shall have the right to demand, by written request to the Superior Court ¹[no later than 45 days after being served with the foreclosure complaint] before the date that the final judgment is entered¹, that the holder of the tax sale certificate foreclose the right to redeem that certificate in the same manner as a mortgage, through a judicial sale as in the manner of the foreclosure of a mortgage of the property through the office of the county sheriff, or in the alternative, through an Internet auction of the property through the office of the county sheriff. The final judgment shall provide for a writ of execution to the sheriff of the county in which the property is located, and the holding of either a judicial sale ¹[as in the manner of the foreclosure of a mortgage,]¹ or an Internet auction. In the event that the owner or the owner's heirs do not demand a judicial sale ¹[as in the manner of the foreclosure of a mortgage,]¹ or an Internet auction, the owner of the tax sale certificate may proceed under subsection a. of this section and foreclose without a judicial sale ¹[as in the manner of

the foreclosure of a mortgage,] or an Internet auction,¹ and the owner and the owner's heirs shall have no claim against the holder of the tax sale certificate for any equity in the property. The amount received through the judicial sale ¹[as in the manner of the foreclosure of a mortgage,]¹ or ¹[through]¹ the Internet auction, as appropriate, shall be conclusively presumed to be the fair market value of the property. In the event that no one bids on the property through the judicial sale ¹[as in the manner of the foreclosure of a mortgage]¹ or ¹[at]¹ the Internet auction, and the owner of the tax sale certificate obtains fee title from the sheriff, it shall be conclusively presumed that there is no equity in the property. In the event that the sheriff has not established an Internet auction, the ¹[defendant] owner or the owner's heirs¹ shall only be entitled to a judicial sale as in the manner of the foreclosure of a mortgage.

The sheriff of the county shall deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale ¹[as in the manner of the foreclosure of a mortgage]¹ or the Internet auction, as appropriate, after the holder of the tax sale certificate has been paid the redemption moneys, allowable costs, and attorney's fees as set forth by the court in the final judgment of foreclosure. The sheriff shall deduct the costs to the office of the county sheriff of holding the judicial sale ¹[as in the manner of the foreclosure of a mortgage]¹ or ¹the¹ Internet auction, as appropriate, ¹which shall¹ have been withheld by the sheriff from those funds. ¹[All subsequent lienholders named in the foreclosure shall have the right to file a motion in the Superior Court for any surplus funds, in the order of their priority, not later than the first day of the seventh month next following the issuance of the sheriff's deed. The owner, or the owner's heirs, shall be entitled to any remaining surplus, and shall be entitled to file a motion to the court for the payment of the surplus. After five years from the date of the judicial sale as in the manner of the foreclosure of a mortgage, the clerk of the court shall pay any unclaimed monies to the holder of the tax sale certificate. If the holder of the tax sale certificate is unable to be located, the funds shall revert to the municipality wherein the property is located, and shall be paid by the clerk of the court to the chief financial officer of the municipality.] The process set forth in this section shall be the exclusive method through which the owner, or the owner's heirs, may assert a claim to any surplus funds by motion to the Superior Court.

Application for, and distribution of, surplus moneys held by the clerk of the court shall be made in accordance with

N.J.S.2A:50-37 and the applicable Rules of Court.

Notwithstanding the provisions of N.J.S.2A:50-64, interest shall continue to accrue on the tax sale certificate pursuant to R.S.54:4-67 through the date of actual payment.¹

As used in this section, "surplus funds" shall mean and include any funds derived from the judicial sale as in the manner of the foreclosure of a mortgage or ¹the¹ Internet auction through the office of the county sheriff of a property pursuant to this section, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate. The redemption amount shall also include any costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction.

c. In the event that any federal statute or regulation requires a judicial sale as in the manner of the foreclosure of a mortgage of the property in order to debar and foreclose a mortgage interest or any other lien held by the United States or any agency or instrumentality thereof, then the tax lien may be foreclosed in the same manner as a mortgage, and the final judgment shall provide for the issuance of a writ of execution to the sheriff of the county wherein the property is situated and the holding of a judicial sale as in the manner of the foreclosure of a mortgage.

(cf: P.L.2021, c.92, s.23)

¹[3. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to read as follows:

7. [No search fee, counsel fee or other fee related to certified mailings shall be allowed a plaintiff other than a municipality in the foreclosure of a tax lien unless, prior to the filing of the complaint, the plaintiff shall have given] At least 30 [days' written notice to the parties entitled to redeem whose interests appear of record at the time of the tax sale,] days prior to the filing of a complaint, the holder of a tax sale certificate shall send all parties having a right to redeem a notice of intention to file a complaint. The notice to the owner, or the owner's heirs, shall be addressed to the last known address contained in the municipal records. The notice to any other parties having a right to redeem shall be sent to the address contained in any document recorded with the county clerk or register. The notice shall be sent by certified mail with postage prepaid thereon [, addressed to the last known address of such persons, of intention to file such complaint]. The notice shall also contain the amount [due on such] necessary to redeem the outstanding tax [lien] sale certificate [as of the date of the notice]. The notice shall also advise the owner, or the owner's heirs, that the owner, or the

owner's heirs, shall have the right to request a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff, to preserve any equity that may be in the property. A copy of [such] the notice shall also be filed with the municipal tax collector's office. [Upon the filing and service of such notice, a plaintiff shall be entitled to such fees and expenses.]

A municipality, by ordinance, may authorize the tax collector to charge to a lienholder a fee not to exceed \$50 for the calculation of the amount due to redeem the tax lien required to be provided pursuant to this section. Any request for a redemption calculation shall specify the date to be used for the calculation, which shall be the date of the notice. Neither the tax collector or the municipality shall be liable for an incorrect calculation. The fee paid to the municipality shall not become part of the lien and shall not be passed on to any party entitled to redeem pursuant to R.S.54:5-54.

(cf: P.L.2009, c.320, s.11)]¹

¹4. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to read as follows:

7. No search fee, counsel fee or other fee related to certified mailings shall be allowed a plaintiff other than a municipality in the foreclosure of a tax lien unless, prior to the filing of the complaint, the plaintiff shall have given at least 30 days' written notice to the parties entitled to redeem whose interests appear of record at the time of the tax sale[.]. The notice shall be sent by certified mail with postage prepaid thereon, addressed to the last known address of such persons, [of intention to file such complaint] and the owner's address based upon the last deed of record with the county clerk. The notice shall also contain the amount [due on such] necessary to redeem the outstanding tax [lien] sale certificate as of the date of the notice. The notice shall also advise the owner that the owner, or the owner's heirs, shall have the right to request a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff, to preserve any equity that may be in the property, except if the property meets the definition of abandoned property. A copy of [such] the notice shall also be filed with the municipal tax collector's office. Upon the filing and service of such notice, a plaintiff shall be entitled to such fees and expenses.

A municipality, by ordinance, may authorize the tax collector to charge to a lienholder a fee not to exceed \$50 for the calculation of the amount due to redeem the tax lien required to be provided pursuant to this section. Any request for a

redemption calculation shall specify the date to be used for the calculation, which shall be the date of the notice. Neither the tax collector or the municipality shall be liable for an incorrect calculation. [The fee paid to the municipality shall not become part of the lien and shall not be passed on to any party entitled to redeem pursuant to R.S.54:5-54.]¹

(cf: P.L.2009, c.320, s.11)

¹5. R.S.54:5-98 is amended to read as follows:

54:5-98. a. After the complaint has been filed redemption shall be made in that cause only, provided notice of the suit has been filed in the office of the tax collector. Such redemption shall be subject to the fixing of attorney's fees and costs at any time during the course of the action. In such proceedings the court may order that the redemption shall be made to the tax collector of the municipality at his official office during business hours, except in cases where the tax collector is a part-time official with no regular municipal office, in which case it may order that the redemption shall be made to the clerk of the county in which the premises lie.

b. After the notice of intention to file a complaint has been served pursuant to section 7 of P.L.1965, c.187 (C.54:5-97.1) but before the foreclosure complaint is filed, the holder of the tax sale certificate shall be reimbursed for the following expenses actually incurred, which expenses shall be added to the amount required to redeem the tax sale certificate and certified by the holder of the tax sale certificate to the tax collector:

- (1) a foreclosure or title search fee, not to exceed \$350;
- (2) the postage and certified mailing costs for notices required under section 7 of P.L.1965, c.187 (C.54:5-97.1);
- (3) reasonable attorney's fees, not to exceed \$150; and
- (4) any fees paid to a municipality for the calculation of the amount due to redeem the tax lien.

c. If an action to foreclose the right of redemption has been filed, the plaintiff or the holder of the tax sale certificate shall be reimbursed the following amounts for each property to be foreclosed, which amounts shall be added to the amount required to redeem the tax sale certificate:

- (1) attorney's fees in the amount of \$2,500, which amount shall be deemed reasonable for both the preparation and the filing of the action to foreclose the right to redeem the tax sale certificate;
- (2) in exceptional circumstances or in the event of litigation or bankruptcy, any additional reasonable attorney's fees that are incurred and specifically requested by the plaintiff or holder of a tax sale certificate and approved by the court, on a case-by-case

basis, through the date on which any litigation has finally concluded; and

(3) the following reasonable expenses, provided that the counsel of the plaintiff or the holder of a tax sale certificate provides a signed affidavit attesting that such expenses actually were incurred by the plaintiff or the tax sale certificate holder:

(a) all filing fees charged by the court;

(b) all reasonable service of process fees, or fees for service of any pleadings require by the Rules of Court or by the court, including fees for attempting to serve process;

(c) all reasonable fees incurred for skip traces, registered agent searches, and other reasonable fees incurred to locate any party for service of process;

(d) a title or foreclosure search fee not to exceed \$350, except in circumstances of an exceptionally complicated title, an application may be made to the court to increase the title or foreclosure search fee;

(e) if a second, updated title or foreclosure search is conducted, an update search fee not to exceed \$100;

(f) publication fees charged by a newspaper of general circulation in the county in which the property is located or otherwise required by the Rules of Court or order of the court;

(g) posting fees;

(h) estate search costs;

(i) postage, certified mail, and photocopying expenses;

(j) actual cost to record and discharge notice of lis pendens and in rem complaint;

(k) all sheriff's office fees, including, but not limited to, commission or expense for scheduling a sheriff's sale of the property;

(l) abandoned property certification reports not to exceed \$350;

(m) any fees paid to a municipality for the calculation of the amount due to redeem the tax lien;

(n) in exceptional circumstances or in the event of litigation or bankruptcy, any additional reasonable expenses that are incurred and specifically requested by the plaintiff or holder of a tax sale certificate and approved by a court, on a case-by-case basis through the date on which any litigation is concluded; and

(o) any other reasonable expenses incurred by the plaintiff or the holder of the tax sale certificate in locating and effectuating service on any party named as a defendant in the complaint.¹

(cf: P.L.1965, c.187, s.8)

¹[4.] 6.¹ (New section) a. ¹[The] In actions commenced pursuant to subsection a. of R.S.54:5-86, the¹ holder of the tax

sale certificate shall provide to the owner of the property, in writing, with the summons and complaint for foreclosure, information prominently displayed in bold face type that states that the owner of the property being foreclosed has the right to demand, in writing ¹to the Superior Court before the date that the final judgment is entered¹, that the foreclosure proceed to a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property, through the office of the county sheriff.

¹[If the holder of the tax sale certificate has complied with this subsection and the provisions of section 7 of P.L.1965, c.187 (C.54:5-97.1), that person shall be entitled to recover all reasonable attorney's fees and costs of foreclosure, including all costs associated with the judicial sale as in the manner of the foreclosure of a mortgage.]¹ In the event that all costs and reasonable attorney's fees are not recovered through the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction through the office of the county sheriff, the holder of the tax sale certificate shall have a first lien paramount to any other lien on any surplus funds and shall be entitled to apply to the Superior Court to recover any unpaid costs or attorney's fees. ¹The attorney shall be required to record a Statewide judgment lien for the outstanding attorney's fees.¹

b. In the event that the owner, or the owner's heirs, has demanded a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff, the holder of the tax sale certificate, whether a municipality or third party investor, shall be entitled to a first lien on any surplus funds that are deposited in the Superior Court by the sheriff, in the amount of 10 percent of the surplus funds, to cover administrative costs related to the foreclosure action, not to exceed \$5,000.

c. As used in this section, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.

¹[5.] 7.¹ (New section) ¹[The] In actions commenced by a municipality pursuant to subsection a. of R.S.54:5-86, the¹ notice of foreclosure required to be served on the owner and published in the newspaper shall conspicuously state in boldface type that the owner and the owner's heirs shall have the right to demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, of the property subject to the tax lien foreclosure to preserve any equity that they may have in the property.

The notice shall state that the owner, or the owner's heirs, has ¹[45 days from the date of service of the foreclosure complaint] until the date of entry of a final judgment¹ to file the written request ¹with the Superior Court¹ for a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff with the Superior Court.

¹[6.] 8.¹ Section 31 of P.L.1948, c.96 (C.54:5-104.59) is amended to read as follows:

31. a. ¹[All] In an action commenced by a municipality, all¹ costs and reasonable attorney fees¹, as determined by order of the court,¹ incurred in [the] an in rem foreclosure action shall be equitably apportioned and allocated to the several [parcels of land affected by the action] schedules of the complaint, and added to the amount required to redeem.

b. For the purposes of this section, "all costs and reasonable attorney fees" includes all costs incurred [for a standard title search] with respect to the in rem foreclosure proceeding and all reasonable attorney fees incurred in the action, including any¹[.]¹ and all¹[.]¹ costs incurred for a judicial sale as in the manner of the foreclosure of a mortgage¹[.]¹ or an Internet auction through the office of the county sheriff¹[.]¹ of the property subject to the in rem foreclosure¹, which amounts shall be determined by the court and shall fully compensate the holder of the tax sale certificate for all such reasonable incurred expenses¹.

In the event that the holder of the tax sale certificate shall have incurred any costs or attorney's fees in the judicial sale¹[as in the manner of the foreclosure of a mortgage]¹ or¹ the¹ Internet auction¹ [through the office of the county sheriff]¹ that were not reimbursed in the redemption monies received from the sheriff, the holder of the tax sale certificate shall have a first lien on any surplus funds for reimbursement of those costs and reasonable attorney's fees. As used in this section, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.

¹c. In the event that a complaint is filed by a municipality that contains not more than one tax sale certificate, the municipality shall be entitled to the reimbursement of attorney's fees and costs pursuant to R.S.54:5-98.

d. In the event that a complaint is filed by the holder of a tax sale certificate for an abandoned property pursuant to subsection b. of R.S.54:5-86, the holder shall be entitled to the reimbursement of attorney's fees and costs pursuant to R.S.54:5-98.¹

(cf: P.L.1993, c.278, s.1)

¹[7.] 9.¹ Section 36 of P.L.1948, c.96 (C.54:5-104.64) is amended to read as follows:

36. (a) ¹[The] In an action commenced by any person or a municipality holding a tax sale certificate for an abandoned property pursuant to subsection b. of R.S.54:5-86, the¹ judgment shall give full and complete relief, in accordance with the provisions of [this act] P.L.1948, c.96 (C.54:5-104.29 et seq.), and in accordance with any other statutory authority, to bar the right of redemption, ¹to bar claims to surplus equity,¹ and to foreclose all prior or subsequent alienations and descents of the lands and encumbrances thereon, and to adjudge an absolute and indefeasible estate of inheritance in fee simple in the lands therein described, to be vested in the plaintiff ¹, except as set forth in subsection d. of this section¹.

(b) Such judgment shall be binding and final upon all persons having a vested or contingent title or interest in or lien or claim upon or against said lands, including the State of New Jersey, and any agency and political subdivision thereof, and their heirs, devisees and personal representatives, and their, or any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest, notwithstanding any infancy or incompetency of such person or persons, and upon all other persons, their heirs, devisees and personal representatives and their or any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest.

¹[In order to preserve any equity that may exist in the property being foreclosed, the owner, or the owner's heirs, shall have the right to demand, by written request to the Superior Court, no later than 45 days after being served with the foreclosure complaint, or the publication of the notice concerning the foreclosure, whichever is later, that the holder of the tax sale certificate be foreclosed with a judicial sale as in the manner of the foreclosure of a mortgage of the property through the office of the county sheriff, or, in the alternative, an Internet auction of the property through the office of the county sheriff. If there is more than one schedule in the in rem foreclosure complaint and a request is made for a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, the schedule shall be severed and the final judgment shall provide for a writ of execution to the sheriff of the county where the property is located and the holding of either a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction, as appropriate.

In the event that the owner or the owner's heirs do not demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, the holder of the tax sale certificate may proceed in rem without a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, and the owner or his heirs shall have no claim against the holder of the tax sale certificate for any loss of equity in the property. The amount received at a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, shall be conclusively presumed to be the fair market value of the property. In the event that no one bids at the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction through the office of the county sheriff above the amount to redeem or there is no bidding at all, it shall be conclusively presumed that there is no equity in the property.

The sheriff of the county shall deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction, after all of the costs to the office of the county sheriff of holding the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction, have been withheld by the sheriff from those funds of the sale, after paying the amount of the judgment plus any costs to the holder of the tax sale certificate. All subsequent lienholders named in the foreclosure shall have the right to apply to the Superior Court, in writing, for payment of their lien in the order of their priority. All subsequent lienholders named in the foreclosure shall have the right to apply to the Superior court for any surplus funds, in the order of their priority, not later than the first day of the seventh month next following the issuance of the sheriff's deed. The owner, or the owner's heirs, shall be entitled to any remaining surplus funds and shall be entitled to make written application to the court for the payment of the surplus. After five years from the date of the judicial sale as in the manner of the foreclosure of a mortgage, the clerk of the court shall make payment of any unclaimed monies to the holder of the tax sale certificate. If the holder of the tax sale certificate is unable to be located, the funds shall revert to the municipality wherein the property is located, and shall be paid by the clerk of the court to the chief financial officer of the municipality.

As used in this subsection, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.] An action brought by the holder of a tax sale certificate for an abandoned property shall not require a judicial sale as in the manner of the foreclosure of a

mortgage or an Internet auction through the office of the county sheriff.¹

(c) In the event that any federal statute or regulation requires a judicial sale as in the manner of the foreclosure of a mortgage of the property in order to debar and foreclose a mortgage interest or any other lien held by the United States or any agency or instrumentality thereof, then the tax lien may be foreclosed in the same manner as a mortgage, and the final judgment shall provide for the issuance of a writ of execution to the sheriff of the county wherein the property is situated and the holding of a judicial sale as in the manner of the foreclosure of a mortgage.

¹(d) In an action brought by a municipality, in order to preserve any equity that may exist in the property being foreclosed, the owner, or the owner's heirs, shall have the right to demand, by written request to the Superior Court before the date that final judgment is entered, that the municipal tax sale certificate be foreclosed with a judicial sale as in the manner of the foreclosure of a mortgage of the property through the office of the county sheriff, or, in the alternative, an Internet auction of the property through the office of the county sheriff. If there is more than one schedule in the in rem foreclosure complaint and a request is made for a judicial sale or an Internet auction, the schedule shall be severed and the final judgment shall provide for a writ of execution to the sheriff of the county where the property is located and the holding of either a judicial sale or an Internet auction, as appropriate.

In the event that the owner or the owner's heirs do not demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, the municipality may proceed in rem without a judicial sale or an Internet auction, and the owner or his heirs shall have no claim against the municipality for any loss of equity in the property. The amount received at a judicial sale or an Internet auction shall be conclusively presumed to be the fair market value of the property. In the event that no one bids at the judicial sale or the Internet auction above the amount to redeem, or there is no bidding at all, it shall be conclusively presumed that there is no equity in the property.

The sheriff of the county shall deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale or the Internet auction, after all of the costs to the office of the county sheriff for holding the judicial sale or the Internet auction have been withheld by the sheriff from those funds of the sale, after paying the amount of the judgment plus any costs to the municipality.

Application for and distribution of surplus moneys held by the clerk of court shall be made in accordance with N.J.S.2A:50-37 and the applicable Rules of Court.

As used in this subsection, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.¹

¹[8.] 10.¹ (New section) ¹[With] Except for actions involving a property that meets the definition of abandoned property pursuant to P.L.2003, c.210 (C.55:19-78 et al.), with¹ respect to any ¹in rem or in personam¹ property tax lien foreclosure ¹[actions] action filed by a municipality or third party¹ pending on the date of enactment of the amendatory and supplementary provisions of P.L. , c. (C.) (pending before the Legislature as this bill), a property owner shall be ¹[personally]¹ served ¹[in writing] by regular and certified mail¹ with a notice of their right to demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction by the office of the county sheriff, and shall have ¹[45 days after such service] until the date before the final judgment is entered¹ to notify the ¹[court] Superior Court¹ of their demand for a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction by the office of the county sheriff. If the property owner ¹or the owner's heir¹ demands a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction by the office of the county sheriff, in a timely manner, the ¹[foreclosure complaint shall be amended by the tax lien holder to require such a sale or auction] Superior Court shall order the entry of a final judgment and writ of execution directing that the property be sold at a judicial sale¹. If no timely demand is made for a judicial sale as in the manner of the foreclosure of a mortgage or an ¹[internet] Internet¹ auction by the office of the county sheriff, the foreclosure action shall proceed without a judicial sale ¹[as in the manner of the foreclosure of a mortgage]¹ or an Internet auction through the office of the county sheriff.

¹[9.] 11.¹ This act shall take effect immediately, and shall apply to any ¹[property tax lien foreclosure complaint filed on or after May 25, 2023] tax lien for which the right of redemption has not been foreclosed as of the effective date of this act¹. This act shall have no effect on any foreclosure action in which a final judgment has been entered prior to the effective date of this act.