SENATE, No. 82

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:
Senator BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS
"Property Tax Lien Pilot Program," establishes pilot program to allow certain municipalities greater control over sale of tax liens.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel
AN ACT establishing a pilot program to allow certain municipalities greater control over tax liens, supplementing Title 54 of the Revised Statutes, and amending P.L.1962, c.161.

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

1. (New section) This act shall be known and may be referred to as the "Property Tax Lien Pilot Program."

2. (New section) The Legislature finds and declares that:
   a. Many municipalities, particularly distressed urban municipalities, are limited by the provisions of the "tax sale law," R.S.54:5-1 et seq., from pursuing valuable opportunities for revenue generation and urban revitalization.
   b. If given the opportunity to take control of tax liens under favorable conditions, municipalities could benefit from interest, penalties on lien redemption, and the opportunity to foreclose on liens not redeemed. Those municipalities could benefit significantly as a result, both in terms of revenue generation and urban revitalization.
   c. While it is in the public interest for the State to offer these opportunities, it must also be recognized that participating municipalities would face significant obligations.
   d. Therefore, it is appropriate for the State to establish a pilot program through which municipalities meeting specific criteria may pursue these opportunities under the supervision of the Division of Local Government Services in the Department of Community Affairs to help determine the efficacy of increased control over tax liens.

3. (New section) As used in this act:
   "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.
   "Division" means the Division of Local Government Services in the Department of Community Affairs.
   "Eligible municipality" means a municipality qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).
   "Participating municipality" means an eligible municipality for which an application to participate in the pilot program has been approved by the division pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).
   "Pilot program" means the program established under section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill).

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
"Qualified public or private entity" means any entity designated by the division on the basis of having demonstrated knowledge and substantial experience in the management of tax liens and property foreclosure.

4. (New section) a. The division shall establish a pilot program for the purpose of enhancing the ability of participating municipalities to acquire property tax liens at tax sale in order to facilitate revenue generation and urban revitalization opportunities.

b. Any eligible municipality may submit an application to the division at any time after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) to be designated a participating municipality by the division, and exercise the powers and rights set forth in sections 5 through 9 of P.L. , c. (C. ) (pending before the Legislature as this bill) with respect to properties in that municipality subject to the "tax sale law," R.S.54:5-1 et seq.

c. The application shall include the following information:

(1) a comparative analysis of projected revenues from tax sales, interest, and penalties and a comparative analysis of tax foreclosures that would have accrued to the municipality over the preceding three years and those which are likely to accrue in the following five years under the existing provisions of the "tax sale law," R.S.54:5-1 et seq., and as a result of participation in the pilot program;

(2) a plan showing how the municipality will carry out its responsibilities regarding tax liens it holds, including but not limited to collection of delinquent taxes, tax foreclosure and resale of foreclosed properties, under the pilot program;

(3) the titles and qualifications of the municipal officers, agents, and others who will be engaged in carrying out the municipality’s responsibilities under the pilot program; and

(4) a description of the municipality’s plans for economic and physical stabilization and revitalization, including a discussion of actions currently being taken by the municipality to foster economic and physical stabilization and revitalization.

d. The division shall designate as participating municipalities those municipalities that submit a sound plan for carrying out the responsibilities imposed on them under the pilot program, which demonstrate their ability to carry out the plan, and which show that participation in the pilot program is likely to be beneficial to the municipality’s fiscal, economic, and physical stabilization and its revitalization.

5. (New section) a. Whenever the governing body of a participating municipality shall, by resolution, determine that bidding on a particular parcel or parcels of real estate that are
scheduled to be sold at public auction pursuant to the "tax sale law," R.S.54:5-1 et seq., would be useful for a public purpose, or would be financially advantageous to the municipality, notwithstanding section 1 of P.L.1962, c.161 (C.54:5-30.1), it may authorize and direct a municipal official to attend the auction and bid for that real estate at the tax sale on behalf of the participating municipality utilizing the methods permitted by subsections b. and c. of this section. This authorizing resolution, if specified by the municipality, also may authorize and direct the municipal officer to bid on any subsequent lien on the same property in any future tax sale, also using the methods permitted by subsections b. and c. of this section. Notwithstanding any other provision of law, the participating municipality shall not be required to appropriate specific funds in order to bid on any parcel at any tax sale.

b. At the commencement of bidding on any parcel, the municipal official authorized to bid on that parcel shall announce that the participating municipality is bidding on the parcel. The municipal official’s bid shall be preemptive. There shall be no further bidding on that parcel and the parcel shall be deemed struck off to the participating municipality at the amount determined according to R.S.54:5-34.

c. Alternatively, at any point prior to the commencement of the public auction, the tax collector may post a list of properties which the governing body of the participating municipality has authorized and directed to be bid on behalf of the municipality. This list shall be posted in a prominent location in the place where the auction is to be held. On commencement of the auction, the tax collector shall notify the bidders that the participating municipality has bid on the properties on that list, and that they are withdrawn from the public auction and deemed struck off to the participating municipality.

d. Any municipal tax lien acquisition pursuant to this section shall not be deemed final unless approved by a resolution by the municipal governing body at its next meeting. Absent this approval, the municipality shall be barred from bidding on the same property at the next tax sale only.

e. Whenever a participating municipality acquires a tax lien pursuant to this section, it shall have all the rights provided by R.S.54:5-34.

6. (New section) a. Notwithstanding any other provision of law, regarding any lien acquired pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), any participating municipality may provide by resolution of the governing body that no additional interest shall accrue on the taxes uncollected at the time of tax sale for six months following the tax sale on any property occupied by the owner as their principal residence, who has occupied the property as their principal
residence for the year preceding the tax sale, and whose household income for the most recent calendar year was less than the area median income, as most recently promulgated by the United States Department of Housing and Urban Development for the geographic area in which the municipality is located. In any municipality partaking in this section, a property shall receive this treatment so long as the owner applies to the municipal tax collector pursuant to subsection b. of this section.

b. In order to receive this waiver of interest on uncollected taxes, the homeowner shall provide a sworn statement to the municipal tax collector on a form provided by the tax collector that they are the owner of the property and occupy it as their principal residence, have occupied the property as their principal residence for the year preceding the tax sale, and that their household income for the most recent calendar year was less than the area median income, as most recently promulgated by the United States Department of Housing and Urban Development, along with such reasonable documentation that the municipal tax collector may require.

c. In all participating municipalities that partake in this section, the notice to owner provided under R.S.54:5-27 prior to the tax sale shall include notice of the availability of a waiver of interest as provided in this section and a table showing the area median income as most recently promulgated by the United States Department of Housing and Urban Development, by household size.

d. In the event that the tax collector finds that any individual has received this waiver by falsely swearing that they are the homeowner of a particular property or that their income is below the area median income as most recently promulgated by the United States Department of Housing and Urban Development, that individual shall be subject to a penalty of $2,500, or three times the interest foregone by the municipality, whichever is greater. That amount shall be added to the tax bill for the property, in addition to any civil or criminal penalties otherwise applicable.

e. In the event the property owner has not redeemed the property within six months after the tax sale, the waiver shall become void, and the amount waived on any taxes still unpaid shall be added to the amount due.

f. This waiver shall not apply to any interest that may be due on any taxes that become due and delinquent subsequent to the tax sale.

7. (New section) a. Notwithstanding any other provision of law, any participating municipality may contract with the county in which it is located, with any other municipality, or with any qualified public or private entity to provide the services that a municipality may require in order to take any and all actions with
respect to tax liens held by the municipality, including but not
limited to collection of delinquent taxes, tax foreclosure, and resale
of foreclosed properties.

b. When all of the parties to a contract under subsection a. of
this section are public entities, the contract shall be governed by the
provisions of the “Uniform Shared Services and Consolidation

c. When any of the parties to a contract under subsection a. of
this section are private entities, and when the services that may be
provided under this section are not “professional services” as
defined in subsection (6) of section 2 of P.L.1971, c.198 (C.40A:11-
2), they shall be considered “extraordinary unspecifiable services”
as defined in subsection (7) of section 2 of P.L.1971, c.198
(C.40A:11-2).

8. (New section) a. Notwithstanding any provisions of
N.J.S.40A:2-51 to the contrary, in order to fund unpaid tax liens
designated by the municipality pursuant to P.L. c. (C. )
(pending before the Legislature as this bill), a participating
municipality may incur indebtedness, borrow money, and authorize
and issue negotiable refunding bonds in any amount that the
municipality determines necessary, subject to approval by the Local
Finance Board in the Department of Community Affairs, in addition
to the other purposes for which it may do the same under
N.J.S.40A:2-51.

b. In anticipation of the issuance of the bonds under subsection
a. of this section, the participating municipality may issue bond
anticipation notes. Each series of notes shall mature no later than
one year from the date of issuance and may be renewed
periodically. However, all such bonds and any notes in anticipation
thereof shall mature no later than five years from the date of initial
issuance.

c. All bonds or notes issued pursuant to this section shall be
backed by the taxing power of the municipality.

d. The proceeds realized from the redemption of tax liens or
from the sale or other disposition of associated real property, shall
be held in a debt service reserve fund established pursuant to
N.J.S.40A:2-62, at least to the extent needed for repayment of
principal and interest on the bonds and notes in the current fiscal
year. Any amount in excess of that needed for the repayment of
principal and interest on the bonds and notes in the current fiscal
year may be transferred into the general fund of the municipality as
miscellaneous revenue pursuant to the "Local Budget Law,"
N.J.S.40A:4-1 et seq.

e. Pursuant to the requirements of section 1 of P.L.1978, c.35
(C.40A:3-11), bonds issued pursuant to this section may be further
secured as qualified refunding bonds.
9. (New section) a. Any participating municipality may operate under the provisions of the pilot program created by P.L. , c. (C. ) (pending before the Legislature as this bill) for a period of no less than five years, unless removed from the program by the division pursuant to this section.

b. Participating municipalities shall provide annual reports to the division on the status of the pilot program, including revenues and expenditures, and the status of the tax liens and properties that are acquired by the municipality pursuant to the pilot program.

c. Upon request by any participating municipality, when the division finds that the municipality is materially benefiting from participating in the pilot program, it may extend the number of years during which the municipality may participate in the program, in increments of three years, without limitation on the number of extensions.

d. (1) If the division finds that a participating municipality is not adequately carrying out its responsibilities under the pilot program, or that the municipality’s fiscal condition is being materially harmed by continued participation in the pilot program, it shall notify the municipality, including a list of corrective actions that the municipality must take in order to remain in the pilot program.

(2) If, at the end of one year from notification by the division, the division finds that the conditions that led to notification have not materially changed, the division may order the participating municipality removed from the pilot program and to cease operating under the provisions of the pilot program.

(3) When a participating municipality is ordered removed from the pilot program under paragraph (2) of this subsection, then the division shall take such steps as may be necessary to ensure that any legal or financial obligations entered into by the municipality are met.

e. The director shall provide a report to the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) within eight years following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), recommending whether the program should be continued in its current form, expanded to other classes of municipalities, or terminated in its entirety.

10. Section 1 of P.L.1962, c.161 (C.54:5-30.1) is amended to read as follows:

1. Whenever the governing body of a municipality shall by resolution determine that a particular parcel or parcels of real estate, scheduled to be sold at public auction pursuant to the tax sale law, would be useful for a public purpose, it may authorize and direct a municipal official to attend the auction and bid for such parcel or parcels at such sale on behalf of the municipality in the same
manner as any other bidder. Municipalities deemed “participating municipalities” under the pilot program established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall follow the bidding process established in section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.1962, c.161, s.1)

11. (New section) The Director of the Division of Local Government Services in the Department of Community Affairs shall prepare and disseminate guidelines and forms adopted pursuant to section 1 of P.L. 2011, c.215 (C.52:14B-3a), as necessary for the administration of section 4 of this act, P.L. , c. (C.) (pending before the Legislature as this bill), and such other sections of this act as the director deems appropriate.

12. This act shall take effect immediately.

STATEMENT

This bill would establish a pilot program through which municipalities meeting specific criteria may pursue opportunities for revenue generation and urban revitalization through the "tax sale law," R.S.54:5-1 et seq., under the supervision of the Division of Local Government Services in the Department of Community Affairs by taking control of tax liens. If given the opportunity to take control of tax liens under favorable conditions, municipalities could benefit from interest, penalties on lien redemption, and the opportunity to foreclose on liens not redeemed, which would generate revenue and provide urban revitalization opportunities. A municipality would have to qualify for urban aid under P.L.1978, c.14 (C.52:27D-178 et seq.) to be eligible to participate in the pilot program.

Under the pilot program, any eligible municipality will be able to submit an application to the division to participate. The application would need to include an analysis of the projected benefits of participation in the program, a plan detailing how municipal responsibilities would be carried out, a discussion of what individuals would be responsible for the program, and a discussion of larger municipal revitalization efforts. Based on these aspects of the application, the division would designate participating municipalities.

Participating municipalities would enjoy greater power with regard to tax sale properties. Through resolution, the municipality would be able to direct a municipal official to bid at auction on one or more parcels of real estate whenever its governing body determines that the property would be either useful for a public
purpose or financially beneficial. The municipal official would be authorized to preempt all other bidding on that property, allowing the municipality to obtain the tax lien at an advantageous rate. At its next meeting following the tax lien sale, the municipal governing body would have to approve the sale through resolution. Without this final approval, the municipality would be barred from bidding on the same property at the next tax sale.

For tax liens on owner-occupied properties obtained under the provisions of this bill, for which the household income is below the region’s median income, municipalities may provide by resolution that no additional interest would accrue on uncollected taxes for the first six months following the tax sale. To benefit from this interest waiver, the homeowner would have to first apply to the municipal tax collector to be found eligible.

To most effectively manage its tax liens, participating municipalities may contract with the county, another municipality, or any other qualified public or private entity. Management needs may include actions such as the collection of delinquent taxes, tax foreclosure, and the resale of foreclosed properties.

To fund unpaid tax liens, a participating municipality may incur indebtedness, borrow money, and authorize and issue negotiable refunding bonds in any amount determined necessary if approved by the Local Finance Board in the Department of Community Affairs. The municipality may also issue bond anticipation notes prior to bond issuance. Any bonds or notes issued will be backed by the municipality’s taxing power. Municipal proceeds from the redemption of tax liens, or from the sale of associated property, would be held in a debt service reserve fund to the extent needed for repayment of principal and interest on the bonds and notes in the current fiscal year. Any amount in excess of that needed for principal and interest repayment could be transferred to the municipality’s general fund as miscellaneous revenue. Bonds may be further secured with State urban aid, and designated as qualified refunding bonds, through the process required by section 1 of P.L.1978, c.35 (C.40A:3-11).

Any participating municipality will be able to operate under the pilot program for no less than five years, unless removed by the division. Participating municipalities will be required to provide annual reports to the division on the status of the program. Upon municipal request, the division may extend the number of years the municipality may participate in the program, in increments of three years, without limitation on the number of extensions.

If the division finds that a participating municipality is not adequately carrying out its responsibilities under the program, or that the municipality’s fiscal condition is being materially harmed by continued participation in the program, it will notify the municipality, and provide a list of corrective actions that must be
taken to remain in the program. At the end of one year from
notification, if the division finds that those undesirable conditions
have not materially changed, the division may order the
municipality removed from the program. In such an event, the
division shall take the steps necessary to ensure that any legal or
financial obligations the municipality has entered are met. Within
eight years of the effective date of this act, the director shall
produce recommendations on whether or not the program should be
continued.