

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



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1 AN ACT establishing a pilot program to allow certain municipalities
2 greater control over tax liens, supplementing Title 54 of the
3 Revised Statutes, and amending P.L.1962, c.161.
4

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

7
8 1. (New section) This act shall be known and may be referred
9 to as the "Property Tax Lien Pilot Program."
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11 2. (New section) The Legislature finds and declares that:

12 a. Many municipalities, particularly distressed urban
13 municipalities, are limited by the provisions of the "tax sale law,"
14 R.S.54:5-1 et seq., from pursuing valuable opportunities for revenue
15 generation and urban revitalization.

16 b. If given the opportunity to take control of tax liens under
17 favorable conditions, municipalities could benefit from interest,
18 penalties on lien redemption, and the opportunity to foreclose on
19 liens not redeemed. Those municipalities could benefit
20 significantly as a result, both in terms of revenue generation and
21 urban revitalization.

22 c. While it is in the public interest for the State to offer these
23 opportunities, it must also be recognized that participating
24 municipalities would face significant obligations.

25 d. Therefore, it is appropriate for the State to establish a pilot
26 program through which municipalities meeting specific criteria may
27 pursue these opportunities under the supervision of the Division of
28 Local Government Services in the Department of Community
29 Affairs to help determine the efficacy of increased control over tax
30 liens.
31

32 3. (New section) As used in this act:

33 "Director" means the Director of the Division of Local
34 Government Services in the Department of Community Affairs.

35 "Division" means the Division of Local Government Services in
36 the Department of Community Affairs.

37 "Eligible municipality" means a municipality qualifying for aid
38 pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

39 "Participating municipality" means an eligible municipality for
40 which an application to participate in the pilot program has been
41 approved by the division pursuant to P.L. , c. (C.) (pending
42 before the Legislature as this bill).

43 "Pilot program" means the program established under section 4
44 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.

1 "Qualified public or private entity" means any entity designated
2 by the division on the basis of having demonstrated knowledge and
3 substantial experience in the management of tax liens and property
4 foreclosure.

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

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

18 c. The application shall include the following information:

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

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

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

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

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

44

45 5. (New section) a. Whenever the governing body of a
46 participating municipality shall, by resolution, determine that
47 bidding on a particular parcel or parcels of real estate that are

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

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

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

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

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

39

40 6. (New section) a. Notwithstanding any other provision of
41 law, regarding any lien acquired pursuant to section 5 of P.L. , c.
42 (C.) (pending before the Legislature as this bill), any
43 participating municipality may provide by resolution of the
44 governing body that no additional interest shall accrue on the taxes
45 uncollected at the time of tax sale for six months following the tax
46 sale on any property occupied by the owner as their principal
47 residence, who has occupied the property as their principal

1 residence for the year preceding the tax sale, and whose household
2 income for the most recent calendar year was less than the area
3 median income, as most recently promulgated by the United States
4 Department of Housing and Urban Development for the geographic
5 area in which the municipality is located. In any municipality
6 partaking in this section, a property shall receive this treatment so
7 long as the owner applies to the municipal tax collector pursuant to
8 subsection b. of this section.

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

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

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

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

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

42
43 7. (New section) a. Notwithstanding any other provision of
44 law, any participating municipality may contract with the county in
45 which it is located, with any other municipality, or with any
46 qualified public or private entity to provide the services that a
47 municipality may require in order to take any and all actions with

1 respect to tax liens held by the municipality, including but not
2 limited to collection of delinquent taxes, tax foreclosure, and resale
3 of foreclosed properties.

4 b. When all of the parties to a contract under subsection a. of
5 this section are public entities, the contract shall be governed by the
6 provisions of the "Uniform Shared Services and Consolidation
7 Act," P.L.2007, c.63 (C.40A:65-1 et seq.).

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

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

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

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

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

45 e. Pursuant to the requirements of section 1 of P.L.1978, c.35
46 (C.40A:3-11), bonds issued pursuant to this section may be further
47 secured as qualified refunding bonds.

- 1 9. (New section) a. Any participating municipality may
2 operate under the provisions of the pilot program created by P.L. ,
3 c. (C.) (pending before the Legislature as this bill) for a period
4 of no less than five years, unless removed from the program by the
5 division pursuant to this section.
- 6 b. Participating municipalities shall provide annual reports to
7 the division on the status of the pilot program, including revenues
8 and expenditures, and the status of the tax liens and properties that
9 are acquired by the municipality pursuant to the pilot program.
- 10 c. Upon request by any participating municipality, when the
11 division finds that the municipality is materially benefiting from
12 participating in the pilot program, it may extend the number of
13 years during which the municipality may participate in the program,
14 in increments of three years, without limitation on the number of
15 extensions.
- 16 d. (1) If the division finds that a participating municipality is
17 not adequately carrying out its responsibilities under the pilot
18 program, or that the municipality's fiscal condition is being
19 materially harmed by continued participation in the pilot program, it
20 shall notify the municipality, including a list of corrective actions
21 that the municipality must take in order to remain in the pilot
22 program.
- 23 (2) If, at the end of one year from notification by the division,
24 the division finds that the conditions that led to notification have
25 not materially changed, the division may order the participating
26 municipality removed from the pilot program and to cease operating
27 under the provisions of the pilot program.
- 28 (3) When a participating municipality is ordered removed from
29 the pilot program under paragraph (2) of this subsection, then the
30 division shall take such steps as may be necessary to ensure that any
31 legal or financial obligations entered into by the municipality are
32 met.
- 33 e. The director shall provide a report to the Governor and the
34 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)
35 within eight years following the effective date of P.L. , c. (C.)
36 (pending before the Legislature as this bill), recommending whether
37 the program should be continued in its current form, expanded to
38 other classes of municipalities, or terminated in its entirety.
- 39
- 40 10. Section 1 of P.L.1962, c.161 (C.54:5-30.1) is amended to
41 read as follows:
- 42 1. Whenever the governing body of a municipality shall by
43 resolution determine that a particular parcel or parcels of real estate,
44 scheduled to be sold at public auction pursuant to the tax sale law,
45 would be useful for a public purpose, it may authorize and direct a
46 municipal official to attend the auction and bid for such parcel or
47 parcels at such sale on behalf of the municipality in the same

1 manner as any other bidder. Municipalities deemed “participating
2 municipalities” under the pilot program established pursuant to
3 section 4 of P.L. , c. (C.) (pending before the Legislature as
4 this bill) shall follow the bidding process established in section 5 of
5 P.L. , c. (C.) (pending before the Legislature as this bill).
6 (cf: P.L.1962, c.161, s.1)
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8 11. (New section) The Director of the Division of Local
9 Government Services in the Department of Community Affairs
10 shall prepare and disseminate guidelines and forms adopted
11 pursuant to section 1 of P.L. 2011, c.215 (C.52:14B-3a), as
12 necessary for the administration of section 4 of this act, P.L. , c.
13 (C.) (pending before the Legislature as this bill), and such other
14 sections of this act as the director deems appropriate.
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16 12. This act shall take effect immediately.
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19 STATEMENT
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21 This bill would establish a pilot program through which
22 municipalities meeting specific criteria may pursue opportunities
23 for revenue generation and urban revitalization through the "tax sale
24 law," R.S.54:5-1 et seq., under the supervision of the Division of
25 Local Government Services in the Department of Community
26 Affairs by taking control of tax liens. If given the opportunity to
27 take control of tax liens under favorable conditions, municipalities
28 could benefit from interest, penalties on lien redemption, and the
29 opportunity to foreclose on liens not redeemed, which would
30 generate revenue and provide urban revitalization opportunities. A
31 municipality would have to qualify for urban aid under P.L.1978,
32 c.14 (C.52:27D-178 et seq.) to be eligible to participate in the pilot
33 program.

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

43 Participating municipalities would enjoy greater power with
44 regard to tax sale properties. Through resolution, the municipality
45 would be able to direct a municipal official to bid at auction on one
46 or more parcels of real estate whenever its governing body
47 determines that the property would be either useful for a public

1 purpose or financially beneficial. The municipal official would be
2 authorized to preempt all other bidding on that property, allowing
3 the municipality to obtain the tax lien at an advantageous rate. At
4 its next meeting following the tax lien sale, the municipal governing
5 body would have to approve the sale through resolution. Without
6 this final approval, the municipality would be barred from bidding
7 on the same property at the next tax sale.

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

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

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

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

43 If the division finds that a participating municipality is not
44 adequately carrying out its responsibilities under the program, or
45 that the municipality's fiscal condition is being materially harmed
46 by continued participation in the program, it will notify the
47 municipality, and provide a list of corrective actions that must be

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1 taken to remain in the program. At the end of one year from
2 notification, if the division finds that those undesirable conditions
3 have not materially changed, the division may order the
4 municipality removed from the program. In such an event, the
5 division shall take the steps necessary to ensure that any legal or
6 financial obligations the municipality has entered are met. Within
7 eight years of the effective date of this act, the director shall
8 produce recommendations on whether or not the program should be
9 continued.