



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4971

Introduced 2/7/2024, by Rep. Patrick Windhorst

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-31-1

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

Amends the Illinois Municipal Code. Provides that any owner or tenant of real property within 1200 feet in any direction of any dangerous or unsafe building located within the territory of any municipality (rather than within the territory of a municipality with a population of 500,000 or more) may file with the appropriate municipal authority a request that the municipality apply to the circuit court of the county in which the building is located for an order permitting the demolition, removal of garbage, debris, and other noxious or unhealthy substances and materials from, or repair or enclosure of, the building under specified provisions of the Code.

LRB103 35367 AWJ 65432 b

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 Illinois Municipal Code is amended by
5 changing Section 11-31-1 as follows:

6 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

7 Sec. 11-31-1. Demolition, repair, enclosure, or
8 remediation.

9 (a) The corporate authorities of each municipality may
10 demolish, repair, or enclose or cause the demolition, repair,
11 or enclosure of dangerous and unsafe buildings or uncompleted
12 and abandoned buildings within the territory of the
13 municipality and may remove or cause the removal of garbage,
14 debris, and other hazardous, noxious, or unhealthy substances
15 or materials from those buildings. In any county having
16 adopted by referendum or otherwise a county health department
17 as provided by Division 5-25 of the Counties Code or its
18 predecessor, the county board of that county may exercise
19 those powers with regard to dangerous and unsafe buildings or
20 uncompleted and abandoned buildings within the territory of
21 any city, village, or incorporated town having less than
22 50,000 population.

23 The corporate authorities shall apply to the circuit court

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

19 The hearing upon the application to the circuit court
20 shall be expedited by the court and shall be given precedence
21 over all other suits. Any person entitled to bring an action
22 under subsection (b) shall have the right to intervene in an
23 action brought under this Section.

24 The cost of the demolition, repair, enclosure, or removal
25 incurred by the municipality, by an intervenor, or by a lien
26 holder of record, including court costs, attorney's fees, and

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

14 The notice must consist of a sworn statement setting out
15 (1) a description of the real estate sufficient for its
16 identification, (2) the amount of money representing the cost
17 and expense incurred, and (3) the date or dates when the cost
18 and expense was incurred by the municipality, the lien holder
19 of record, or the intervenor. Upon payment of the cost and
20 expense by the owner or persons interested in the property
21 after the notice of lien has been filed, the lien shall be
22 released by the municipality, the person in whose name the
23 lien has been filed, or the assignee of the lien, and the
24 release may be filed of record as in the case of filing notice
25 of lien. Unless the lien is enforced under subsection (c), the
26 lien may be enforced by foreclosure proceedings as in the case

1 of mortgage foreclosures under Article XV of the Code of Civil
2 Procedure or mechanics' lien foreclosures. An action to
3 foreclose this lien may be commenced at any time after the date
4 of filing of the notice of lien. The costs of foreclosure
5 incurred by the municipality, including court costs,
6 reasonable attorney's fees, advances to preserve the property,
7 and other costs related to the enforcement of this subsection,
8 plus statutory interest, are a lien on the real estate and are
9 recoverable by the municipality from the owner or owners of
10 the real estate.

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

15 If the appropriate official of any municipality determines
16 that any dangerous and unsafe building or uncompleted and
17 abandoned building within its territory fulfills the
18 requirements for an action by the municipality under the
19 Abandoned Housing Rehabilitation Act, the municipality may
20 petition under that Act in a proceeding brought under this
21 subsection.

22 (b) Any owner or tenant of real property within 1200 feet
23 in any direction of any dangerous or unsafe building located
24 within the territory of a municipality ~~with a population of~~
25 ~~500,000 or more~~ may file with the appropriate municipal
26 authority a request that the municipality apply to the circuit

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

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

14 If a municipality or a person or persons other than the
15 owner or owners of record pay the cost of demolition, removal
16 of garbage, debris, and other noxious or unhealthy substances
17 and materials, repair, or enclosure pursuant to a court order,
18 the cost, including court costs, attorney's fees, and other
19 costs related to the enforcement of this subsection, is
20 recoverable from the owner or owners of the real estate and is
21 a lien on the real estate; the lien is superior to all prior
22 existing liens and encumbrances, except taxes, if, within 180
23 days after the repair, removal, demolition, or enclosure, the
24 municipality or the person or persons who paid the costs of
25 demolition, removal, repair, or enclosure shall file a notice
26 of lien of the cost and expense incurred in the office of the

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

1 recoverable by the municipality from the owner or owners of
2 the real estate.

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

7 (c) In any case where a municipality has obtained a lien
8 under subsection (a), (b), or (f), the municipality may
9 enforce the lien under this subsection (c) in the same
10 proceeding in which the lien is authorized.

11 A municipality desiring to enforce a lien under this
12 subsection (c) shall petition the court to retain jurisdiction
13 for foreclosure proceedings under this subsection. Notice of
14 the petition shall be served, by certified or registered mail,
15 on all persons who were served notice under subsection (a),
16 (b), or (f). The court shall conduct a hearing on the petition
17 not less than 15 days after the notice is served. If the court
18 determines that the requirements of this subsection (c) have
19 been satisfied, it shall grant the petition and retain
20 jurisdiction over the matter until the foreclosure proceeding
21 is completed. The costs of foreclosure incurred by the
22 municipality, including court costs, reasonable attorneys'
23 fees, advances to preserve the property, and other costs
24 related to the enforcement of this subsection, plus statutory
25 interest, are a lien on the real estate and are recoverable by
26 the municipality from the owner or owners of the real estate.

1 If the court denies the petition, the municipality may enforce
2 the lien in a separate action as provided in subsection (a),
3 (b), or (f).

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

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

19 (d) In addition to any other remedy provided by law, the
20 corporate authorities of any municipality may petition the
21 circuit court to have property declared abandoned under this
22 subsection (d) if:

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

26 (2) the property is unoccupied by persons legally in

1 possession; and

2 (3) the property's condition impairs public health,
3 safety, or welfare for reasons specified in the petition.

4 All persons having an interest of record in the property,
5 including tax purchasers and beneficial owners of any Illinois
6 land trust having title to the property, shall be named as
7 defendants in the petition and shall be served with process.
8 In addition, service shall be had under Section 2-206 of the
9 Code of Civil Procedure as in other cases affecting property,
10 including publication in a newspaper that is in circulation in
11 the county in which the action is pending. At least 30 days
12 prior to any declaration of abandonment, the municipality or
13 its agent shall post a notice not less than 1 foot by 1 foot in
14 size on the front of the subject building or property. The
15 notice shall be dated as of the date of the posting and state
16 that the municipality is seeking a declaration of abandonment
17 for the property. The notice shall also include the case
18 number for the underlying circuit court petition filed
19 pursuant to this subsection and a notification that the owner
20 should file an appearance in the matter if the property is not
21 abandoned.

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

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

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

1 If the owner of record enters an appearance in the action
2 within the 30 day period, but does not at that time file with
3 the court a request to demolish the dangerous or unsafe
4 building or to put the property in safe condition, or
5 specifically waive his or her rights under this subsection
6 (d), the court shall vacate its order declaring the property
7 abandoned if it determines that the owner of record does not
8 intend to abandon the property. In that case, the municipality
9 may amend its complaint in order to initiate proceedings under
10 subsection (a), or it may request that the court order the
11 owner to demolish buildings or repair the dangerous or unsafe
12 conditions of the property alleged in the petition or seek the
13 appointment of a receiver or other equitable relief to correct
14 the conditions at the property. The powers and rights of a
15 receiver appointed under this subsection (d) shall include all
16 of the powers and rights of a receiver appointed under Section
17 11-31-2 of this Code.

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

1 other interest of the highest priority.

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

25 If the owner of record has not entered an appearance and
26 proven that the owner did not intend to abandon the property,

1 and if no person with an interest in the property files a
2 timely request or if the requesting party fails to demolish
3 the building or put the property in safe condition within the
4 time specified by the court, the municipality may petition the
5 court to issue a judicial deed for the property to the
6 municipality or another governmental body designated by the
7 municipality in the petition. A conveyance by judicial deed
8 shall operate to extinguish all existing ownership interests
9 in, liens on, and other interest in the property, including
10 tax liens, and shall extinguish the rights and interests of
11 any and all holders of a bona fide certificate of purchase of
12 the property for delinquent taxes. Any such bona fide
13 certificate of purchase holder shall be entitled to a sale in
14 error as prescribed under Section 21-310 of the Property Tax
15 Code.

16 (e) Each municipality may use the provisions of this
17 subsection to expedite the removal of certain buildings that
18 are a continuing hazard to the community in which they are
19 located.

20 If a residential or commercial building is 3 stories or
21 less in height as defined by the municipality's building code,
22 and the corporate official designated to be in charge of
23 enforcing the municipality's building code determines that the
24 building is open and vacant and an immediate and continuing
25 hazard to the community in which the building is located, then
26 the official shall be authorized to post a notice not less than

1 2 feet by 2 feet in size on the front of the building. The
2 notice shall be dated as of the date of the posting and shall
3 state that unless the building is demolished, repaired, or
4 enclosed, and unless any garbage, debris, and other hazardous,
5 noxious, or unhealthy substances or materials are removed so
6 that an immediate and continuing hazard to the community no
7 longer exists, then the building may be demolished, repaired,
8 or enclosed, or any garbage, debris, and other hazardous,
9 noxious, or unhealthy substances or materials may be removed,
10 by the municipality.

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

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

22 (2) Cause to be published, in a newspaper published or
23 circulated in the municipality where the building is
24 located, a notice setting forth (i) the permanent tax
25 index number and the address of the building, (ii) a
26 statement that the property is open and vacant and

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

8 (3) Cause to be recorded the Notice to Remediate
9 mailed under paragraph (1) in the office of the recorder
10 in the county in which the real estate is located or in the
11 office of the registrar of titles of the county if the real
12 estate is registered under the Registered Title (Torrens)
13 Act.

14 Any person or persons with a current legal or equitable
15 interest in the property objecting to the proposed actions of
16 the corporate authorities may file his or her objection in an
17 appropriate form in a court of competent jurisdiction.

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

1 remove any garbage, debris, or other hazardous, noxious, or
2 unhealthy substances or materials.

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

1 moves to vacate the dismissal and serves a copy of the motion
2 on the chief executive officer of the municipality.
3 Notwithstanding any other law to the contrary, if the objector
4 does not file a motion and give the required notice, if the
5 motion is denied by the court, or if the action is again
6 dismissed for want of prosecution, then the dismissal is with
7 prejudice and the demolition, repair, enclosure, or removal
8 may proceed forthwith.

9 The municipality must maintain documentation submitted
10 from a contractor on the disposal of any demolition debris,
11 clean or general, or uncontaminated soil generated during the
12 demolition, repair, or enclosure of a building for a period of
13 3 years identifying the hauler, generator, place of origin of
14 the debris or soil, the weight or volume of the debris or soil,
15 and the location, owner, and operator of the facility where
16 the debris or soil was transferred, disposed, recycled, or
17 treated. The documentation required by this paragraph does not
18 apply to a permitted pollution control facility that transfers
19 or accepts construction or demolition debris, clean or
20 general, or uncontaminated soil for final disposal, recycling,
21 or treatment.

22 Following the demolition, repair, or enclosure of a
23 building, or the removal of garbage, debris, or other
24 hazardous, noxious, or unhealthy substances or materials under
25 this subsection, the municipality may file a notice of lien
26 against the real estate for the cost of the demolition,

1 repair, enclosure, or removal within 180 days after the
2 repair, demolition, enclosure, or removal occurred, for the
3 cost and expense incurred, in the office of the recorder in the
4 county in which the real estate is located or in the office of
5 the registrar of titles of the county if the real estate
6 affected is registered under the Registered Titles (Torrens)
7 Act; this lien has priority over the interests of those
8 parties named in the Notice to Remediate mailed under
9 paragraph (1), but not over the interests of third party
10 purchasers or encumbrancers for value who obtained their
11 interests in the property before obtaining actual or
12 constructive notice of the lien. The notice of lien shall
13 consist of a sworn statement setting forth (i) a description
14 of the real estate, such as the address or other description of
15 the property, sufficient for its identification; (ii) the
16 expenses incurred by the municipality in undertaking the
17 remedial actions authorized under this subsection; (iii) the
18 date or dates the expenses were incurred by the municipality;
19 (iv) a statement by the corporate official responsible for
20 enforcing the building code that the building was open and
21 vacant and constituted an immediate and continuing hazard to
22 the community; (v) a statement by the corporate official that
23 the required sign was posted on the building, that notice was
24 sent by certified mail to the owners of record, and that notice
25 was published in accordance with this subsection; and (vi) a
26 statement as to when and where the notice was published. The

1 lien authorized by this subsection may thereafter be released
2 or enforced by the municipality as provided in subsection (a).

3 (f) The corporate authorities of each municipality may
4 remove or cause the removal of, or otherwise environmentally
5 remediate hazardous substances and petroleum products on, in,
6 or under any abandoned and unsafe property within the
7 territory of a municipality. In addition, where preliminary
8 evidence indicates the presence or likely presence of a
9 hazardous substance or a petroleum product or a release or a
10 substantial threat of a release of a hazardous substance or a
11 petroleum product on, in, or under the property, the corporate
12 authorities of the municipality may inspect the property and
13 test for the presence or release of hazardous substances and
14 petroleum products. In any county having adopted by referendum
15 or otherwise a county health department as provided by
16 Division 5-25 of the Counties Code or its predecessor, the
17 county board of that county may exercise the above-described
18 powers with regard to property within the territory of any
19 city, village, or incorporated town having less than 50,000
20 population.

21 For purposes of this subsection (f):

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

24 (2) "abandoned" means;

25 (A) the property has been tax delinquent for 2 or
26 more years;

1 (B) the property is unoccupied by persons legally
2 in possession; and

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

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

8 The corporate authorities shall apply to the circuit court
9 of the county in which the property is located (i) for an order
10 allowing the municipality to enter the property and inspect
11 and test substances on, in, or under the property; or (ii) for
12 an order authorizing the corporate authorities to take action
13 with respect to remediation of the property if conditions on
14 the property, based on the inspection and testing authorized
15 in paragraph (i), indicate the presence of hazardous
16 substances or petroleum products. Remediation shall be deemed
17 complete for purposes of paragraph (ii) above when the
18 property satisfies Tier I, II, or III remediation objectives
19 for the property's most recent usage, as established by the
20 Environmental Protection Act, and the rules and regulations
21 promulgated thereunder. Where, upon diligent search, the
22 identity or whereabouts of the owner or owners of the
23 property, including the lien holders of record, is not
24 ascertainable, notice mailed to the person or persons in whose
25 name the real estate was last assessed is sufficient notice
26 under this Section.

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

20 The cost of the inspection, testing, or remediation
21 incurred by the municipality or by a lien holder of record,
22 including court costs, attorney's fees, and other costs
23 related to the enforcement of this Section, is a lien on the
24 real estate; except that in any instances where a municipality
25 incurs costs of inspection and testing but finds no hazardous
26 substances or petroleum products on the property that present

1 an actual or imminent threat to public health and safety, such
2 costs are not recoverable from the owners nor are such costs a
3 lien on the real estate. The lien is superior to all prior
4 existing liens and encumbrances, except taxes and any lien
5 obtained under subsection (a) or (e), if, within 180 days
6 after the completion of the inspection, testing, or
7 remediation, the municipality or the lien holder of record who
8 incurred the cost and expense shall file a notice of lien for
9 the cost and expense incurred in the office of the recorder in
10 the county in which the real estate is located or in the office
11 of the registrar of titles of the county if the real estate
12 affected is registered under the Registered Titles (Torrens)
13 Act.

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

25 The lien may be enforced under subsection (c) or by
26 foreclosure proceedings as in the case of mortgage

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

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

20 (g) In any case where a municipality has obtained a lien
21 under subsection (a), the municipality may also bring an
22 action for a money judgment against the owner or owners of the
23 real estate in the amount of the lien in the same manner as
24 provided for bringing causes of action in Article II of the
25 Code of Civil Procedure and, upon obtaining a judgment, file a
26 judgment lien against all of the real estate of the owner or

1 owners and enforce that lien as provided for in Article XII of
2 the Code of Civil Procedure.

3 (Source: P.A. 102-363, eff. 1-1-22; 102-847, eff. 5-13-22.)