



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1721

Introduced 2/26/2021, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-90
35 ILCS 200/21-215
35 ILCS 200/21-355
55 ILCS 5/5-1121
65 ILCS 5/11-31-1

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

Amends the Property Tax Code. In provisions about delinquent property, provides that a county may take steps necessary (currently, shall take all steps necessary) to acquire title to the property and may manage and operate the property, including, but not limited to, mowing of grass, removal of nuisance greenery, removal of garbage, waste, debris or other materials, or the demolition, repair, or remediation of unsafe structures. Provides costs to be distributed to taxing districts, including operation and maintenance costs and all costs associated with county staff and overhead used to perform the duties of the trustees. Reduces the maximum penalty bids for the annual tax sale from 18% to 12%. In provisions about redemption of property, limits the assessments of penalties from every 6 months to 12 months. Makes conforming changes. Amends the Counties Code and Illinois Municipal Code. Modifies the requirements to have a circuit court declare property abandoned.

LRB102 14259 AWJ 19611 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Property Tax Code is amended by changing
5 Sections 21-90, 21-215, and 21-355 as follows:

6 (35 ILCS 200/21-90)

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

1 operate the property, including, but not limited to, mowing of
2 grass, removal of nuisance greenery, removal of garbage,
3 waste, debris or other materials, or the demolition, repair,
4 or remediation of unsafe structures. When a county, or other
5 taxing district within the county, is a petitioner for a tax
6 deed, no filing fee shall be required. When a county or other
7 taxing district within the county is the petitioner for a tax
8 deed, one petition may be filed including all parcels that are
9 tax delinquent within the county or taxing district, and any
10 publication made under Section 22-20 of this Code may combine
11 all such parcels within a single notice. The notice shall list
12 the street or common address, if known, of the parcels for
13 informational purposes. The county, as tax creditor and as
14 trustee for other tax creditors, or other taxing district
15 within the county, shall not be required to allege and prove
16 that all taxes and special assessments which become due and
17 payable after the sale to the county have been paid nor shall
18 the county be required to pay the subsequently accruing taxes
19 or special assessments at any time. The county board or its
20 designee may prohibit the county collector from including the
21 property in the tax sale of one or more subsequent years. The
22 lien of taxes and special assessments which become due and
23 payable after a sale to a county shall merge in the fee title
24 of the county, or other taxing district within the county, on
25 the issuance of a deed.

26 The County may sell or assign the property so acquired, or

1 the certificate of purchase to it, to any party, including
2 taxing districts. The proceeds of that sale or assignment,
3 less all costs of the county incurred in the acquisition,
4 operation, maintenance, and sale or assignment of the
5 property, including all costs associated with county staff and
6 overhead used to perform the duties of the trustee set forth in
7 this Section, shall be distributed to the taxing districts in
8 proportion to their respective interests therein.

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

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

12 (35 ILCS 200/21-215)

13 Sec. 21-215. Penalty bids. The person at the sale offering
14 to pay the amount due on each property for the least penalty
15 percentage shall be the purchaser of that property. No bid
16 shall be accepted for a penalty exceeding 12% ~~18%~~ of the amount
17 of the tax or special assessment on property.

18 (Source: P.A. 86-1431; 86-1480; 88-455.)

19 (35 ILCS 200/21-355)

20 Sec. 21-355. Amount of redemption. Any person desiring to
21 redeem shall deposit an amount specified in this Section with
22 the county clerk of the county in which the property is
23 situated, in legal money of the United States, or by cashier's
24 check, certified check, post office money order or money order

1 issued by a financial institution insured by an agency or
2 instrumentality of the United States, payable to the county
3 clerk of the proper county. The deposit shall be deemed timely
4 only if actually received in person at the county clerk's
5 office prior to the close of business as defined in Section
6 3-2007 of the Counties Code on or before the expiration of the
7 period of redemption or by United States mail with a post
8 office cancellation mark dated not less than one day prior to
9 the expiration of the period of redemption. The deposit shall
10 be in an amount equal to the total of the following:

11 (a) the certificate amount, which shall include all
12 tax principal, special assessments, interest and penalties
13 paid by the tax purchaser together with costs and fees of
14 sale and fees paid under Sections 21-295 and 21-315
15 through 21-335;

16 (b) the accrued penalty, computed through the date of
17 redemption as a percentage of the certificate amount, as
18 follows:

19 (1) if the redemption occurs on or before the
20 expiration of 12 ~~6~~ months from the date of sale, the
21 certificate amount times the penalty bid at sale;

22 (2) if the redemption occurs after 12 ~~6~~ months
23 from the date of sale, and on or before the expiration
24 of 24 ~~12~~ months from the date of sale, the certificate
25 amount times 2 times the penalty bid at sale;

26 (3) if the redemption occurs after 24 ~~12~~ months

1 from the date of sale and on or before the expiration
2 of 36 ~~18~~ months from the date of sale, the certificate
3 amount times 3 times the penalty bid at sale;

4 ~~(4) if the redemption occurs after 18 months from~~
5 ~~the date of sale and on or before the expiration of 24~~
6 ~~months from the date of sale, the certificate amount~~
7 ~~times 4 times the penalty bid at sale;~~

8 ~~(5) if the redemption occurs after 24 months from~~
9 ~~the date of sale and on or before the expiration of 30~~
10 ~~months from the date of sale, the certificate amount~~
11 ~~times 5 times the penalty bid at sale;~~

12 ~~(6) if the redemption occurs after 30 months from~~
13 ~~the date of sale and on or before the expiration of 36~~
14 ~~months from the date of sale, the certificate amount~~
15 ~~times 6 times the penalty bid at sale.~~ In the event
16 that the property to be redeemed has been purchased
17 under Section 21-405, the penalty bid shall be 12% per
18 penalty period as set forth in subparagraphs (1)
19 through (3) ~~(6)~~ of this subsection (b). The changes to
20 this subdivision (b) (6) made by this amendatory Act of
21 the 91st General Assembly are not a new enactment, but
22 declaratory of existing law.

23 (c) The total of all taxes, special assessments,
24 accrued interest on those taxes and special assessments
25 and costs charged in connection with the payment of those
26 taxes or special assessments, which have been paid by the

1 tax certificate holder on or after the date those taxes or
2 special assessments became delinquent together with 12%
3 penalty on each amount so paid for each year or portion
4 thereof intervening between the date of that payment and
5 the date of redemption. In counties with less than
6 3,000,000 inhabitants, however, a tax certificate holder
7 may not pay all or part of an installment of a subsequent
8 tax or special assessment for any year, nor shall any
9 tender of such a payment be accepted, until after the
10 second or final installment of the subsequent tax or
11 special assessment has become delinquent or until after
12 the holder of the certificate of purchase has filed a
13 petition for a tax deed under Section 22.30. The person
14 redeeming shall also pay the amount of interest charged on
15 the subsequent tax or special assessment and paid as a
16 penalty by the tax certificate holder. This amendatory Act
17 of 1995 applies to tax years beginning with the 1995
18 taxes, payable in 1996, and thereafter.

19 (d) Any amount paid to redeem a forfeiture occurring
20 subsequent to the tax sale together with 12% penalty
21 thereon for each year or portion thereof intervening
22 between the date of the forfeiture redemption and the date
23 of redemption from the sale.

24 (e) Any amount paid by the certificate holder for
25 redemption of a subsequently occurring tax sale.

26 (f) All fees paid to the county clerk under Section

1 22-5.

2 (g) All fees paid to the registrar of titles incident
3 to registering the tax certificate in compliance with the
4 Registered Titles (Torrens) Act.

5 (h) All fees paid to the circuit clerk and the
6 sheriff, a licensed or registered private detective, or
7 the coroner in connection with the filing of the petition
8 for tax deed and service of notices under Sections 22-15
9 through 22-30 and 22-40 in addition to (1) a fee of \$35 if
10 a petition for tax deed has been filed, which fee shall be
11 posted to the tax judgement, sale, redemption, and
12 forfeiture record, to be paid to the purchaser or his or
13 her assignee; (2) a fee of \$4 if a notice under Section
14 22-5 has been filed, which fee shall be posted to the tax
15 judgment, sale, redemption, and forfeiture record, to be
16 paid to the purchaser or his or her assignee; (3) all costs
17 paid to record a lis pendens notice in connection with
18 filing a petition under this Code; and (4) if a petition
19 for tax deed has been filed, all fees up to \$150 per
20 redemption paid to a registered or licensed title
21 insurance company or title insurance agent for a title
22 search to identify all owners, parties interested, and
23 occupants of the property, to be paid to the purchaser or
24 his or her assignee. The fees in (1) and (2) of this
25 paragraph (h) shall be exempt from the posting
26 requirements of Section 21-360. The costs incurred in

1 causing notices to be served by a licensed or registered
2 private detective under Section 22-15, may not exceed the
3 amount that the sheriff would be authorized by law to
4 charge if those notices had been served by the sheriff.

5 (i) All fees paid for publication of notice of the tax
6 sale in accordance with Section 22-20.

7 (j) All sums paid to any county, city, village or
8 incorporated town for reimbursement under Section 22-35.

9 (k) All costs and expenses of receivership under
10 Section 21-410, to the extent that these costs and
11 expenses exceed any income from the property in question,
12 if the costs and expenditures have been approved by the
13 court appointing the receiver and a certified copy of the
14 order or approval is filed and posted by the certificate
15 holder with the county clerk. Only actual costs expended
16 may be posted on the tax judgment, sale, redemption and
17 forfeiture record.

18 (Source: P.A. 98-1162, eff. 6-1-15.)

19 Section 10. The Counties Code is amended by changing
20 Section 5-1121 as follows:

21 (55 ILCS 5/5-1121)

22 Sec. 5-1121. Demolition, repair, or enclosure.

23 (a) The county board of each county may demolish, repair,
24 or enclose or cause the demolition, repair, or enclosure of

1 dangerous and unsafe buildings or uncompleted and abandoned
2 buildings within the territory of the county, but outside the
3 territory of any municipality, and may remove or cause the
4 removal of garbage, debris, and other hazardous, noxious, or
5 unhealthy substances or materials from those buildings. If a
6 township within the county makes a formal request to the
7 county board as provided in Section 85-50 of the Township Code
8 that the county board commence specified proceedings under
9 this Section with respect to property located within the
10 township but outside the territory of any municipality, then,
11 at the next regular county board meeting occurring at least 10
12 days after the formal request is made to the county board, the
13 county board shall either commence the requested proceedings
14 or decline to do so (either formally or by failing to commence
15 the proceedings within 60 days after the request) and shall
16 notify the township board making the request of the county
17 board's decision. In any county having adopted, by referendum
18 or otherwise, a county health department as provided by
19 Division 5-25 of the Counties Code or its predecessor, the
20 county board of any such county may upon a formal request by
21 the city, village, or incorporated town demolish, repair or
22 cause the demolition or repair of dangerous and unsafe
23 buildings or uncompleted and abandoned buildings within the
24 territory of any city, village, or incorporated town having a
25 population of less than 50,000.

26 The county board shall apply to the circuit court of the

1 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 to do so, have failed to commence proceedings to put the
6 building in a safe condition or to demolish it or (ii) for an
7 order requiring the owner or owners of record to demolish,
8 repair, or enclose the building or to remove garbage, debris,
9 and other hazardous, noxious, or unhealthy substances or
10 materials from the building. It is not a defense to the cause
11 of action that the building is boarded up or otherwise
12 enclosed, although the court may order the defendant to have
13 the building boarded up or otherwise enclosed. Where, upon
14 diligent search, the identity or whereabouts of the owner or
15 owners of the building, including the lien holders of record,
16 is not ascertainable, notice mailed to the person or persons
17 in whose name the real estate was last assessed and the posting
18 of such notice upon the premises sought to be demolished or
19 repaired is sufficient notice under this Section.

20 The hearing upon the application to the circuit court
21 shall be expedited by the court and shall be given precedence
22 over all other suits.

23 The cost of the demolition, repair, enclosure, or removal
24 incurred by the county, by an intervenor, or by a lien holder
25 of record, including court costs, attorney's fees, and other
26 costs related to the enforcement of this Section, is

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

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

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

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

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

19 (b) In any case where a county has obtained a lien under
20 subsection (a), the county may enforce the lien under this
21 subsection (b) in the same proceeding in which the lien is
22 authorized.

23 A county desiring to enforce a lien under this subsection
24 (b) shall petition the court to retain jurisdiction for
25 foreclosure proceedings under this subsection. Notice of the
26 petition shall be served, by certified or registered mail, on

1 all persons who were served notice under subsection (a). The
2 court shall conduct a hearing on the petition not less than 15
3 days after the notice is served. If the court determines that
4 the requirements of this subsection (b) have been satisfied,
5 it shall grant the petition and retain jurisdiction over the
6 matter until the foreclosure proceeding is completed. The
7 costs of foreclosure incurred by the county, including court
8 costs, reasonable attorneys' fees, advances to preserve the
9 property, and other costs related to the enforcement of this
10 subsection, plus statutory interest, are a lien on the real
11 estate and are recoverable by the county from the owner or
12 owners of the real estate. If the court denies the petition,
13 the county may enforce the lien in a separate action as
14 provided in subsection (a).

15 All persons designated in Section 15-1501 of the Code of
16 Civil Procedure as necessary parties in a mortgage foreclosure
17 action shall be joined as parties before issuance of an order
18 of foreclosure. Persons designated in Section 15-1501 of the
19 Code of Civil Procedure as permissible parties may also be
20 joined as parties in the action.

21 The provisions of Article XV of the Code of Civil
22 Procedure applicable to mortgage foreclosures shall apply to
23 the foreclosure of a lien under this subsection (b), except to
24 the extent that those provisions are inconsistent with this
25 subsection. For purposes of foreclosures of liens under this
26 subsection, however, the redemption period described in

1 subsection (b) of Section 15-1603 of the Code of Civil
2 Procedure shall end 60 days after the date of entry of the
3 order of foreclosure.

4 (c) In addition to any other remedy provided by law, the
5 county board of any county may petition the circuit court to
6 have property declared abandoned under this subsection (c) if:

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

10 (2) the property is unoccupied by persons legally in
11 possession; and

12 (3) the property's condition impairs public health,
13 safety, or welfare for reasons specified in the petition
14 property contains a dangerous or unsafe building.

15 All persons having an interest of record in the property,
16 including tax purchasers and beneficial owners of any Illinois
17 land trust having title to the property, shall be named as
18 defendants in the petition and shall be served with process.
19 In addition, service shall be had under Section 2-206 of the
20 Code of Civil Procedure as in other cases affecting property.
21 At least 30 days prior to any declaration of abandonment, the
22 county or its agent shall post a notice not less than 1 foot by
23 1 foot in size on the front of the subject building or
24 property. The notice shall be dated as of the date of the
25 posting and state that the county is seeking a declaration of
26 abandonment for the property. The notice shall also include

1 the case number for the underlying circuit court petition
2 filed pursuant to this subsection and a notification that the
3 owner should file an appearance in the matter if the property
4 is not abandoned.

5 The county, however, may proceed under this subsection in
6 a proceeding brought under subsection (a). Notice of the
7 petition shall be served by certified or registered mail on
8 all persons who were served notice under subsection (a).

9 If the county proves that the conditions described in this
10 subsection exist and the owner of record of the property does
11 not enter an appearance in the action, or, if title to the
12 property is held by an Illinois land trust, if neither the
13 owner of record nor the owner of the beneficial interest of the
14 trust enters an appearance, the court shall declare the
15 property abandoned.

16 If that determination is made, notice shall be sent by
17 certified or registered mail to all persons having an interest
18 of record in the property, including tax purchasers and
19 beneficial owners of any Illinois land trust having title to
20 the property, stating that title to the property will be
21 transferred to the county unless, within 30 days of the
22 notice, the owner of record enters an appearance in the
23 action, or unless any other person having an interest in the
24 property files with the court a request to demolish any or all
25 ~~the~~ dangerous or unsafe buildings ~~building~~ or to put the
26 property ~~building~~ in safe condition.

1 If the owner of record enters an appearance in the action
2 within the 30 day period, the court shall vacate its order
3 declaring the property abandoned. In that case, the county may
4 amend its complaint in order to initiate proceedings under
5 subsection (a).

6 If a request to demolish any or all dangerous or unsafe
7 buildings or to otherwise put the property in safe condition
8 ~~or repair the building~~ is filed within the 30 day period, the
9 court shall grant permission to the requesting party to
10 demolish the building within 30 days or to restore the
11 property building to safe condition within 60 days after the
12 request is granted. An extension of that period for up to 60
13 additional days may be given for good cause. If more than one
14 person with an interest in the property files a timely
15 request, preference shall be given to the person with the lien
16 or other interest of the highest priority.

17 If the requesting party proves to the court that the
18 building has been demolished or put in a safe condition within
19 the period of time granted by the court, the court shall issue
20 a quitclaim judicial deed for the property to the requesting
21 party, conveying only the interest of the owner of record,
22 upon proof of payment to the county of all costs incurred by
23 the county in connection with the action, including but not
24 limited to court costs, attorney's fees, administrative costs,
25 the costs, if any, associated with property maintenance
26 ~~building enclosure or removal~~, and receiver's certificates.

1 The interest in the property so conveyed shall be subject to
2 all liens and encumbrances on the property. In addition, if
3 the interest is conveyed to a person holding a certificate of
4 purchase for the property under the Property Tax Code, the
5 conveyance shall be subject to the rights of redemption of all
6 persons entitled to redeem under that Act, including the
7 original owner of record.

8 If no person with an interest in the property files a
9 timely request or if the requesting party fails to demolish
10 the building or put the property building in safe condition
11 within the time specified by the court, the county may
12 petition the court to issue a judicial deed for the property to
13 the county or another governmental body designated by the
14 county in the petition. A conveyance by judicial deed shall
15 operate to extinguish all existing ownership interests in,
16 liens on, and other interest in the property, including tax
17 liens.

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

21 If the official designated to be in charge of enforcing
22 the county's building code determines that a building is open
23 and vacant and an immediate and continuing hazard to the
24 community in which the building is located, then the official
25 shall be authorized to post a notice not less than 2 feet by 2
26 feet in size on the front of the building. The notice shall be

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

10 Not later than 30 days following the posting of the
11 notice, the county shall do both of the following:

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

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

1 statement that the county intends to demolish, repair, or
2 enclose the building or remove any garbage, debris, or
3 other hazardous, noxious, or unhealthy substances or
4 materials if the owner or owners or lienholders of record
5 fail to do so. This notice shall be published for 3
6 consecutive days.

7 A person objecting to the proposed actions of the county
8 board may file his or her objection in an appropriate form in a
9 court of competent jurisdiction.

10 If the building is not demolished, repaired, or enclosed,
11 or the garbage, debris, or other hazardous, noxious, or
12 unhealthy substances or materials are not removed, within 30
13 days of mailing the notice to the owners of record, the
14 beneficial owners of any Illinois land trust having title to
15 the property, and all lienholders of record in the property,
16 or within 30 days of the last day of publication of the notice,
17 whichever is later, the county board shall have the power to
18 demolish, repair, or enclose the building or to remove any
19 garbage, debris, or other hazardous, noxious, or unhealthy
20 substances or materials.

21 The county may proceed to demolish, repair, or enclose a
22 building or remove any garbage, debris, or other hazardous,
23 noxious, or unhealthy substances or materials under this
24 subsection within a 120-day period following the date of the
25 mailing of the notice if the appropriate official determines
26 that the demolition, repair, enclosure, or removal of any

1 garbage, debris, or other hazardous, noxious, or unhealthy
2 substances or materials is necessary to remedy the immediate
3 and continuing hazard. If, however, before the county proceeds
4 with any of the actions authorized by this subsection, any
5 person has sought a hearing under this subsection before a
6 court and has served a copy of the complaint on the chief
7 executive officer of the county, then the county shall not
8 proceed with the demolition, repair, enclosure, or removal of
9 garbage, debris, or other substances until the court
10 determines that that action is necessary to remedy the hazard
11 and issues an order authorizing the county to do so.

12 Following the demolition, repair, or enclosure of a
13 building, or the removal of garbage, debris, or other
14 hazardous, noxious, or unhealthy substances or materials under
15 this subsection, the county may file a notice of lien against
16 the real estate for the cost of the demolition, repair,
17 enclosure, or removal within 180 days after the repair,
18 demolition, enclosure, or removal occurred, for the cost and
19 expense incurred, in the office of the recorder in the county
20 in which the real estate is located or in the office of the
21 registrar of titles of the county if the real estate affected
22 is registered under the Registered Titles (Torrens) Act. The
23 notice of lien shall consist of a sworn statement setting
24 forth (i) a description of the real estate, such as the address
25 or other description of the property, sufficient for its
26 identification; (ii) the expenses incurred by the county in

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

13 (e) In any case where a county has obtained a lien under
14 subsection (a), the county may also bring an action for a money
15 judgment against the owner or owners of the real estate in the
16 amount of the lien in the same manner as provided for bringing
17 causes of action in Article II of the Code of Civil Procedure
18 and, upon obtaining a judgment, file a judgment lien against
19 all of the real estate of the owner or owners and enforce that
20 lien as provided for in Article XII of the Code of Civil
21 Procedure.

22 (f) In addition to any other remedy provided by law, if a
23 county finds that within a residential property of 1 acre or
24 less there is an accumulation or concentration of: garbage;
25 organic materials in an active state of decomposition
26 including, but not limited to, carcasses, food waste, or other

1 spoiled or rotting materials; human or animal waste; debris;
2 or other hazardous, noxious, or unhealthy substances or
3 materials, which present an immediate threat to the public
4 health or safety or the health and safety of the occupants of
5 the property, the county may, without any administrative
6 procedure to bond, petition the court for immediate injunctive
7 relief to abate or cause the abatement of the condition that is
8 causing the threat to health or safety, including an order
9 causing the removal of any unhealthy or unsafe accumulations
10 or concentrations of the material or items listed in this
11 subsection from the structure or property. The county shall
12 file with the circuit court in which the property is located a
13 petition for an order authorizing the abatement of the
14 condition that is causing the threat to health or safety. A
15 hearing on the petition shall be set within 5 days, not
16 including weekends or holidays, from the date of filing. To
17 provide notice of such hearing, the county shall make every
18 effort to serve the property's owners of record with the
19 petition and summons and, if such service cannot be had, shall
20 provide an affidavit to the court at the hearing showing the
21 service could not be had and the efforts taken to locate and
22 serve the owners of record. The county shall also post a sign
23 at the property notifying all persons of the court proceeding.
24 Following the abatement actions, the county may file a notice
25 of lien for the cost and expense of actions taken under this
26 subsection as provided in subsection (a).

1 (Source: P.A. 101-200, eff. 1-1-20.)

2 Section 15. The Illinois Municipal Code is amended by
3 changing Section 11-31-1 as follows:

4 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

5 Sec. 11-31-1. Demolition, repair, enclosure, or
6 remediation.

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

21 The corporate authorities shall apply to the circuit court
22 of the county in which the building is located (i) for an order
23 authorizing action to be taken with respect to a building if
24 the owner or owners of the building, including the lien

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

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

21 The cost of the demolition, repair, enclosure, or removal
22 incurred by the municipality, by an intervenor, or by a lien
23 holder of record, including court costs, attorney's fees, and
24 other costs related to the enforcement of this Section, is
25 recoverable from the owner or owners of the real estate or the
26 previous owner or both if the property was transferred during

1 the 15 day notice period and is a lien on the real estate; the
2 lien is superior to all prior existing liens and encumbrances,
3 except taxes, if, within 180 days after the repair,
4 demolition, enclosure, or removal, the municipality, the lien
5 holder of record, or the intervenor who incurred the cost and
6 expense shall file a notice of lien for the cost and expense
7 incurred in the office of the recorder in the county in which
8 the real estate is located or in the office of the registrar of
9 titles of the county if the real estate affected is registered
10 under the Registered Titles (Torrens) Act.

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

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

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

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

19 (b) Any owner or tenant of real property within 1200 feet
20 in any direction of any dangerous or unsafe building located
21 within the territory of a municipality with a population of
22 500,000 or more may file with the appropriate municipal
23 authority a request that the municipality apply to the circuit
24 court of the county in which the building is located for an
25 order permitting the demolition, removal of garbage, debris,
26 and other noxious or unhealthy substances and materials from,

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

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

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

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

26 All liens arising under the terms of this subsection (b)

1 shall be assignable. The assignee of the lien shall have the
2 same power to enforce the lien as the assigning party, except
3 that the lien may not be enforced under subsection (c).

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

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

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

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

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

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

23 (2) the property is unoccupied by persons legally in
24 possession; and

25 (3) the property's condition impairs public health,
26 safety, or welfare ~~property contains a dangerous or unsafe~~

1 ~~building~~ for reasons specified in the petition.

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

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

23 If the municipality proves that the conditions described
24 in this subsection exist and (i) the owner of record of the
25 property does not enter an appearance in the action, or, if
26 title to the property is held by an Illinois land trust, if

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

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

23 If the owner of record enters an appearance in the action
24 within the 30 day period, but does not at that time file with
25 the court a request to demolish the dangerous or unsafe
26 building or to put the property ~~building~~ in safe condition, or

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

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

25 If the requesting party (other than the owner of record)
26 proves to the court that the building has been demolished or

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

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

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

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

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

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

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

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

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

1 remove any garbage, debris, or other hazardous, noxious,
2 or unhealthy substances or materials if the owner or
3 owners or lienholders of record fail to do so. This notice
4 shall be published for 3 consecutive days.

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

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

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

26 The municipality may proceed to demolish, repair, or

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

1 does not file a motion and give the required notice, if the
2 motion is denied by the court, or if the action is again
3 dismissed for want of prosecution, then the dismissal is with
4 prejudice and the demolition, repair, enclosure, or removal
5 may proceed forthwith.

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

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

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

1 county board of that county may exercise the above-described
2 powers with regard to property within the territory of any
3 city, village, or incorporated town having less than 50,000
4 population.

5 For purposes of this subsection (f):

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

8 (2) "abandoned" means;

9 (A) the property has been tax delinquent for 2 or
10 more years;

11 (B) the property is unoccupied by persons legally
12 in possession; and

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

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

18 The corporate authorities shall apply to the circuit court
19 of the county in which the property is located (i) for an order
20 allowing the municipality to enter the property and inspect
21 and test substances on, in, or under the property; or (ii) for
22 an order authorizing the corporate authorities to take action
23 with respect to remediation of the property if conditions on
24 the property, based on the inspection and testing authorized
25 in paragraph (i), indicate the presence of hazardous
26 substances or petroleum products. Remediation shall be deemed

1 complete for purposes of paragraph (ii) above when the
2 property satisfies Tier I, II, or III remediation objectives
3 for the property's most recent usage, as established by the
4 Environmental Protection Act, and the rules and regulations
5 promulgated thereunder. Where, upon diligent search, the
6 identity or whereabouts of the owner or owners of the
7 property, including the lien holders of record, is not
8 ascertainable, notice mailed to the person or persons in whose
9 name the real estate was last assessed is sufficient notice
10 under this Section.

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

1 objectives. The hearing upon the application to the circuit
2 court shall be expedited by the court and shall be given
3 precedence over all other suits.

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

24 The notice must consist of a sworn statement setting out
25 (i) a description of the real estate sufficient for its
26 identification, (ii) the amount of money representing the cost

1 and expense incurred, and (iii) the date or dates when the cost
2 and expense was incurred by the municipality or the lien
3 holder of record. Upon payment of the lien amount by the owner
4 of or persons interested in the property after the notice of
5 lien has been filed, a release of lien shall be issued by the
6 municipality, the person in whose name the lien has been
7 filed, or the assignee of the lien, and the release may be
8 filed of record as in the case of filing notice of lien.

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

26 All liens arising under this subsection (f) shall be

1 assignable. The assignee of the lien shall have the same power
2 to enforce the lien as the assigning party, except that the
3 lien may not be enforced under subsection (c).

4 (g) In any case where a municipality has obtained a lien
5 under subsection (a), the municipality may also bring an
6 action for a money judgment against the owner or owners of the
7 real estate in the amount of the lien in the same manner as
8 provided for bringing causes of action in Article II of the
9 Code of Civil Procedure and, upon obtaining a judgment, file a
10 judgment lien against all of the real estate of the owner or
11 owners and enforce that lien as provided for in Article XII of
12 the Code of Civil Procedure.

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