



Rep. Al Riley

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1 AMENDMENT TO SENATE BILL 2677

2 AMENDMENT NO. _____. Amend Senate Bill 2677 on page 1,
3 line 5, by replacing "Section 7-1-13" with "Sections 7-1-13 and
4 11-31-1"; and

5 on page 3, immediately below line 26, by inserting the
6 following:

7 "(65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

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

10 (a) The corporate authorities of each municipality may
11 demolish, repair, or enclose or cause the demolition, repair,
12 or enclosure of dangerous and unsafe buildings or uncompleted
13 and abandoned buildings within the territory of the
14 municipality and may remove or cause the removal of garbage,
15 debris, and other hazardous, noxious, or unhealthy substances
16 or materials from those buildings. In any county having adopted

1 by referendum or otherwise a county health department as
2 provided by Division 5-25 of the Counties Code or its
3 predecessor, the county board of that county may exercise those
4 powers with regard to dangerous and unsafe buildings or
5 uncompleted and abandoned buildings within the territory of any
6 city, village, or incorporated town having less than 50,000
7 population.

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

26 The hearing upon the application to the circuit court shall

1 be expedited by the court and shall be given precedence over
2 all other suits. Any person entitled to bring an action under
3 subsection (b) shall have the right to intervene in an action
4 brought under this Section.

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

21 The notice must consist of a sworn statement setting out
22 (1) a description of the real estate sufficient for its
23 identification, (2) the amount of money representing the cost
24 and expense incurred, and (3) the date or dates when the cost
25 and expense was incurred by the municipality, the lien holder
26 of record, or the intervenor. Upon payment of the cost and

1 expense by the owner of or persons interested in the property
2 after the notice of lien has been filed, the lien shall be
3 released by the municipality, the person in whose name the lien
4 has been filed, or the assignee of the lien, and the release
5 may be filed of record as in the case of filing notice of lien.
6 Unless the lien is enforced under subsection (c), the lien may
7 be enforced by foreclosure proceedings as in the case of
8 mortgage foreclosures under Article XV of the Code of Civil
9 Procedure or mechanics' lien foreclosures. An action to
10 foreclose this lien may be commenced at any time after the date
11 of filing of the notice of lien. The costs of foreclosure
12 incurred by the municipality, including court costs,
13 reasonable attorney's fees, advances to preserve the property,
14 and other costs related to the enforcement of this subsection,
15 plus statutory interest, are a lien on the real estate and are
16 recoverable by the municipality from the owner or owners of the
17 real estate.

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

22 If the appropriate official of any municipality determines
23 that any dangerous and unsafe building or uncompleted and
24 abandoned building within its territory fulfills the
25 requirements for an action by the municipality under the
26 Abandoned Housing Rehabilitation Act, the municipality may

1 petition under that Act in a proceeding brought under this
2 subsection.

3 (b) Any owner or tenant of real property within 1200 feet
4 in any direction of any dangerous or unsafe building located
5 within the territory of a municipality with a population of
6 500,000 or more may file with the appropriate municipal
7 authority a request that the municipality apply to the circuit
8 court of the county in which the building is located for an
9 order permitting the demolition, removal of garbage, debris,
10 and other noxious or unhealthy substances and materials from,
11 or repair or enclosure of the building in the manner prescribed
12 in subsection (a) of this Section. If the municipality fails to
13 institute an action in circuit court within 90 days after the
14 filing of the request, the owner or tenant of real property
15 within 1200 feet in any direction of the building may institute
16 an action in circuit court seeking an order compelling the
17 owner or owners of record to demolish, remove garbage, debris,
18 and other noxious or unhealthy substances and materials from,
19 repair or enclose or to cause to be demolished, have garbage,
20 debris, and other noxious or unhealthy substances and materials
21 removed from, repaired, or enclosed the building in question. A
22 private owner or tenant who institutes an action under the
23 preceding sentence shall not be required to pay any fee to the
24 clerk of the circuit court. The cost of repair, removal,
25 demolition, or enclosure shall be borne by the owner or owners
26 of record of the building. In the event the owner or owners of

1 record fail to demolish, remove garbage, debris, and other
2 noxious or unhealthy substances and materials from, repair, or
3 enclose the building within 90 days of the date the court
4 entered its order, the owner or tenant who instituted the
5 action may request that the court join the municipality as a
6 party to the action. The court may order the municipality to
7 demolish, remove materials from, repair, or enclose the
8 building, or cause that action to be taken upon the request of
9 any owner or tenant who instituted the action or upon the
10 municipality's request. The municipality may file, and the
11 court may approve, a plan for rehabilitating the building in
12 question. A court order authorizing the municipality to
13 demolish, remove materials from, repair, or enclose a building,
14 or cause that action to be taken, shall not preclude the court
15 from adjudging the owner or owners of record of the building in
16 contempt of court due to the failure to comply with the order
17 to demolish, remove garbage, debris, and other noxious or
18 unhealthy substances and materials from, repair, or enclose the
19 building.

20 If a municipality or a person or persons other than the
21 owner or owners of record pay the cost of demolition, removal
22 of garbage, debris, and other noxious or unhealthy substances
23 and materials, repair, or enclosure pursuant to a court order,
24 the cost, including court costs, attorney's fees, and other
25 costs related to the enforcement of this subsection, is
26 recoverable from the owner or owners of the real estate and is

1 a lien on the real estate; the lien is superior to all prior
2 existing liens and encumbrances, except taxes, if, within 180
3 days after the repair, removal, demolition, or enclosure, the
4 municipality or the person or persons who paid the costs of
5 demolition, removal, repair, or enclosure shall file a notice
6 of lien of the cost and expense incurred in the office of the
7 recorder in the county in which the real estate is located or
8 in the office of the registrar of the county if the real estate
9 affected is registered under the Registered Titles (Torrens)
10 Act. The notice shall be in a form as is provided in subsection
11 (a). An owner or tenant who institutes an action in circuit
12 court seeking an order to compel the owner or owners of record
13 to demolish, remove materials from, repair, or enclose any
14 dangerous or unsafe building, or to cause that action to be
15 taken under this subsection may recover court costs and
16 reasonable attorney's fees for instituting the action from the
17 owner or owners of record of the building. Upon payment of the
18 costs and expenses by the owner of or a person interested in
19 the property after the notice of lien has been filed, the lien
20 shall be released by the municipality or the person in whose
21 name the lien has been filed or his or her assignee, and the
22 release may be filed of record as in the case of filing a
23 notice of lien. Unless the lien is enforced under subsection
24 (c), the lien may be enforced by foreclosure proceedings as in
25 the case of mortgage foreclosures under Article XV of the Code
26 of Civil Procedure or mechanics' lien foreclosures. An action

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

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

13 (c) In any case where a municipality has obtained a lien
14 under subsection (a), (b), or (f), the municipality may enforce
15 the lien under this subsection (c) in the same proceeding in
16 which the lien is authorized.

17 A municipality desiring to enforce a lien under this
18 subsection (c) shall petition the court to retain jurisdiction
19 for foreclosure proceedings under this subsection. Notice of
20 the petition shall be served, by certified or registered mail,
21 on all persons who were served notice under subsection (a),
22 (b), or (f). The court shall conduct a hearing on the petition
23 not less than 15 days after the notice is served. If the court
24 determines that the requirements of this subsection (c) have
25 been satisfied, it shall grant the petition and retain
26 jurisdiction over the matter until the foreclosure proceeding

1 is completed. The costs of foreclosure incurred by the
2 municipality, including court costs, reasonable attorneys'
3 fees, advances to preserve the property, and other costs
4 related to the enforcement of this subsection, plus statutory
5 interest, are a lien on the real estate and are recoverable by
6 the municipality from the owner or owners of the real estate.
7 If the court denies the petition, the municipality may enforce
8 the lien in a separate action as provided in subsection (a),
9 (b), or (f).

10 All persons designated in Section 15-1501 of the Code of
11 Civil Procedure as necessary parties in a mortgage foreclosure
12 action shall be joined as parties before issuance of an order
13 of foreclosure. Persons designated in Section 15-1501 of the
14 Code of Civil Procedure as permissible parties may also be
15 joined as parties in the action.

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

25 (d) In addition to any other remedy provided by law, the
26 corporate authorities of any municipality may petition the

1 circuit court to have property declared abandoned under this
2 subsection (d) if:

3 (1) the property has been tax delinquent for 2 or more
4 years or bills for water service for the property have been
5 outstanding for 2 or more years;

6 (2) the property is unoccupied by persons legally in
7 possession; and

8 (3) the property contains a dangerous or unsafe
9 building for reasons specified in the petition.

10 All persons having an interest of record in the property,
11 including tax purchasers and beneficial owners of any Illinois
12 land trust having title to the property, shall be named as
13 defendants in the petition and shall be served with process. In
14 addition, service shall be had under Section 2-206 of the Code
15 of Civil Procedure as in other cases affecting property.

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

21 If the municipality proves that the conditions described in
22 this subsection exist and (i) the owner of record of the
23 property does not enter an appearance in the action, or, if
24 title to the property is held by an Illinois land trust, if
25 neither the owner of record nor the owner of the beneficial
26 interest of the trust enters an appearance, or (ii) if the

1 owner of record or the beneficiary of a land trust, if title to
2 the property is held by an Illinois land trust, enters an
3 appearance and specifically waives his or her rights under this
4 subsection (d), the court shall declare the property abandoned.
5 Notwithstanding any waiver, the municipality may move to
6 dismiss its petition at any time. In addition, any waiver in a
7 proceeding under this subsection (d) does not serve as a waiver
8 for any other proceeding under law or equity.

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

22 If the owner of record enters an appearance in the action
23 within the 30 day period, but does not at that time file with
24 the court a request to demolish the dangerous or unsafe
25 building or to put the building in safe condition, or
26 specifically waive his or her rights under this subsection (d),

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

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

23 If the requesting party (other than the owner of record)
24 proves to the court that the building has been demolished or
25 put in a safe condition in accordance with the local safety
26 codes within the period of time granted by the court, the court

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

20 If the owner of record has not entered an appearance and
21 proven that the owner did not intend to abandon the property,
22 and if ~~if~~ no person with an interest in the property files a
23 timely request or if the requesting party fails to demolish the
24 building or put the building in safe condition within the time
25 specified by the court, the municipality may petition the court
26 to issue a judicial deed for the property to the municipality.

1 A conveyance by judicial deed shall operate to extinguish all
2 existing ownership interests in, liens on, and other interest
3 in the property, including tax liens, and shall extinguish the
4 rights and interests of any and all holders of a bona fide
5 certificate of purchase of the property for delinquent taxes.
6 Any such bona fide certificate of purchase holder shall be
7 entitled to a sale in error as prescribed under Section 21-310
8 of the Property Tax Code.

9 (e) Each municipality may use the provisions of this
10 subsection to expedite the removal of certain buildings that
11 are a continuing hazard to the community in which they are
12 located.

13 If a residential or commercial building is 3 stories or
14 less in height as defined by the municipality's building code,
15 and the corporate official designated to be in charge of
16 enforcing the municipality's building code determines that the
17 building is open and vacant and an immediate and continuing
18 hazard to the community in which the building is located, then
19 the official shall be authorized to post a notice not less than
20 2 feet by 2 feet in size on the front of the building. The
21 notice shall be dated as of the date of the posting and shall
22 state that unless the building is demolished, repaired, or
23 enclosed, and unless any garbage, debris, and other hazardous,
24 noxious, or unhealthy substances or materials are removed so
25 that an immediate and continuing hazard to the community no
26 longer exists, then the building may be demolished, repaired,

1 or enclosed, or any garbage, debris, and other hazardous,
2 noxious, or unhealthy substances or materials may be removed,
3 by the municipality.

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

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

15 (2) Cause to be published, in a newspaper published or
16 circulated in the municipality where the building is
17 located, a notice setting forth (i) the permanent tax index
18 number and the address of the building, (ii) a statement
19 that the property is open and vacant and constitutes an
20 immediate and continuing hazard to the community, and (iii)
21 a statement that the municipality intends to demolish,
22 repair, or enclose the building or remove any garbage,
23 debris, or other hazardous, noxious, or unhealthy
24 substances or materials if the owner or owners or
25 lienholders of record fail to do so. This notice shall be
26 published for 3 consecutive days.

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

6 Any person or persons with a current legal or equitable
7 interest in the property objecting to the proposed actions of
8 the corporate authorities may file his or her objection in an
9 appropriate form in a 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, or
16 within 30 days of the last day of publication of the notice,
17 whichever is later, the corporate authorities shall have the
18 power to demolish, repair, or enclose the building or to remove
19 any garbage, debris, or other hazardous, noxious, or unhealthy
20 substances or materials.

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

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

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

1 official that the required sign was posted on the building,
2 that notice was sent by certified mail to the owners of record,
3 and that notice was published in accordance with this
4 subsection; and (vi) a statement as to when and where the
5 notice was published. The lien authorized by this subsection
6 may thereafter be released or enforced by the municipality as
7 provided in subsection (a).

8 (f) The corporate authorities of each municipality may
9 remove or cause the removal of, or otherwise environmentally
10 remediate hazardous substances and petroleum products on, in,
11 or under any abandoned and unsafe property within the territory
12 of a municipality. In addition, where preliminary evidence
13 indicates the presence or likely presence of a hazardous
14 substance or a petroleum product or a release or a substantial
15 threat of a release of a hazardous substance or a petroleum
16 product on, in, or under the property, the corporate
17 authorities of the municipality may inspect the property and
18 test for the presence or release of hazardous substances and
19 petroleum products. In any county having adopted by referendum
20 or otherwise a county health department as provided by Division
21 5-25 of the Counties Code or its predecessor, the county board
22 of that county may exercise the above-described powers with
23 regard to property within the territory of any city, village,
24 or incorporated town having less than 50,000 population.

25 For purposes of this subsection (f):

26 (1) "property" or "real estate" means all real

1 property, whether or not improved by a structure;

2 (2) "abandoned" means;

3 (A) the property has been tax delinquent for 2 or
4 more years;

5 (B) the property is unoccupied by persons legally
6 in possession; and

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

10 (4) "hazardous substances" means the same as in Section
11 3.215 of the Environmental Protection Act.

12 The corporate authorities shall apply to the circuit court
13 of the county in which the property is located (i) for an order
14 allowing the municipality to enter the property and inspect and
15 test substances on, in, or under the property; or (ii) for an
16 order authorizing the corporate authorities to take action with
17 respect to remediation of the property if conditions on the
18 property, based on the inspection and testing authorized in
19 paragraph (i), indicate the presence of hazardous substances or
20 petroleum products. Remediation shall be deemed complete for
21 purposes of paragraph (ii) above when the property satisfies
22 Tier I, II, or III remediation objectives for the property's
23 most recent usage, as established by the Environmental
24 Protection Act, and the rules and regulations promulgated
25 thereunder. Where, upon diligent search, the identity or
26 whereabouts of the owner or owners of the property, including

1 the lien holders of record, is not ascertainable, notice mailed
2 to the person or persons in whose name the real estate was last
3 assessed is sufficient notice under this Section.

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

23 The cost of the inspection, testing, or remediation
24 incurred by the municipality or by a lien holder of record,
25 including court costs, attorney's fees, and other costs related
26 to the enforcement of this Section, is a lien on the real

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

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

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

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

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

1 Civil Procedure and, upon obtaining a judgment, file a judgment
2 lien against all of the real estate of the owner or owners and
3 enforce that lien as provided for in Article XII of the Code of
4 Civil Procedure.

5 (Source: P.A. 95-331, eff. 8-21-07.)".