



Rep. André M. Thapedi

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1 AMENDMENT TO HOUSE BILL 6478

2 AMENDMENT NO. _____. Amend House Bill 6478 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This amendatory Act may be
5 referred to as the Vacant Property Maintenance Law.

6 Section 5. Findings. The General Assembly finds that
7 additional action is needed to help prevent foreclosures and
8 revitalize the economy in the State of Illinois. Foreclosures
9 are leaving families homeless or in dire financial straits.
10 They are contributing to the number of vacant and abandoned
11 properties that threaten communities around the State because
12 those properties diminish property values, enable crime, and
13 create health hazards. Municipalities lack many of the tools
14 necessary to ensure adequate property maintenance of vacant
15 property. Municipalities are unable to recover the reasonable
16 costs of their property maintenance activity.

1 Section 10. The Illinois Municipal Code is amended by
2 changing Sections 11-20-15 and 11-20-15.1 and by adding Section
3 11-20-17 as follows:

4 (65 ILCS 5/11-20-15)

5 Sec. 11-20-15. Lien for removal costs.

6 (a) If the municipality incurs a removal cost under Section
7 11-20-7, 11-20-8, 11-20-12, ~~or~~ 11-20-13, or 11-20-17 with
8 respect to any underlying parcel, then that cost is a lien upon
9 that underlying parcel. This lien is superior to all other
10 liens and encumbrances, except tax liens and as otherwise
11 provided in subsection (c) of this Section.

12 (b) To perfect a lien under this Section, the municipality
13 must, within one year after the removal cost is incurred, file
14 notice of lien in the office of the recorder in the county in
15 which the underlying parcel is located or, if the underlying
16 parcel is registered under the Torrens system, in the office of
17 the Registrar of Titles of that county. The notice must consist
18 of a sworn statement setting out:

19 (1) a description of the underlying parcel that
20 sufficiently identifies the parcel;

21 (2) the amount of the removal cost; and

22 (3) the date or dates when the removal cost was
23 incurred by the municipality.

24 If, for any one parcel, the municipality engaged in any

1 removal activity on more than one occasion during the course of
2 one year, then the municipality may combine any or all of the
3 costs of each of those activities into a single notice of lien.

4 (c) A lien under this Section is not valid as to: (i) any
5 purchaser whose rights in and to the underlying parcel arose
6 after the removal activity but before the filing of the notice
7 of lien; or (ii) any mortgagee, judgment creditor, or other
8 lienor whose rights in and to the underlying parcel arose
9 before the filing of the notice of lien.

10 (d) The removal cost is not a lien on the underlying parcel
11 unless a notice is personally served on, or sent by certified
12 mail to, the person to whom was sent the tax bill for the
13 general taxes on the property for the taxable year immediately
14 preceding the removal activities. The notice must be delivered
15 or sent after the removal activities have been performed, and
16 it must: (i) state the substance of this Section and the
17 substance of any ordinance of the municipality implementing
18 this Section; (ii) identify the underlying parcel, by common
19 description; and (iii) describe the removal activity.

20 (e) A lien under this Section may be enforced by
21 proceedings to foreclose as in case of mortgages or mechanics'
22 liens. An action to foreclose a lien under this Section must be
23 commenced within 2 years after the date of filing notice of
24 lien.

25 (f) Any person who performs a removal activity by the
26 authority of the municipality may, in his or her own name, file

1 a lien and foreclose on that lien in the same manner as a
2 municipality under this Section.

3 (g) A failure to file a foreclosure action does not, in any
4 way, affect the validity of the lien against the underlying
5 parcel.

6 (h) Upon payment of the lien cost by the owner of the
7 underlying parcel after notice of lien has been filed, the
8 municipality (or its agent under subsection (f)) shall release
9 the lien, and the release may be filed of record by the owner
10 at his or her sole expense as in the case of filing notice of
11 lien.

12 (i) For the purposes of this Section:

13 "Lien cost" means the removal cost and the filing costs for
14 any notice of lien under subsection (b).

15 "Removal activity" means any activity for which a removal
16 cost was incurred.

17 "Removal cost" means a removal cost as defined under
18 Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13.

19 "Underlying parcel" means a parcel of private property upon
20 which a removal activity was performed.

21 "Year" means a 365-day period.

22 (j) This Section applies only to liens filed after August
23 14, 2009 (the effective date of Public Act 96-462).

24 (k) This Section shall not apply to a lien filed pursuant
25 to Section 11-20-15.1.

26 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10.)

1 (65 ILCS 5/11-20-15.1)

2 Sec. 11-20-15.1. Lien for costs of removal, securing, and
3 enclosing on abandoned residential property.

4 (a) If the municipality elects to incur a removal cost
5 pursuant to subsection (d) of Section 11-20-7, subsection (d)
6 of Section 11-20-8, subsection (d) of Section 11-20-12, ~~or~~
7 subsection (e) of Section 11-20-13, or subsection (j) of
8 Section 11-20-17 or a securing or enclosing cost pursuant to
9 Section 11-31-1.01 with respect to an abandoned residential
10 property, then that cost is a lien upon the underlying parcel
11 of that abandoned residential property. This lien is superior
12 to all other liens and encumbrances, except tax liens and as
13 otherwise provided in this Section.

14 (b) To perfect a lien under this Section, the municipality
15 must, within one year after the cost is incurred for the
16 activity, file notice of the lien in the office of the recorder
17 in the county in which the abandoned residential property is
18 located or, if the abandoned residential property is registered
19 under the Torrens system, in the office of the Registrar of
20 Titles of that county, a sworn statement setting out:

21 (1) a description of the abandoned residential
22 property that sufficiently identifies the parcel;

23 (2) the amount of the cost of the activity;

24 (3) the date or dates when the cost for the activity
25 was incurred by the municipality; and

1 (4) a statement that the lien has been filed pursuant
2 to subsection (d) of Section 11-20-7, subsection (d) of
3 Section 11-20-8, subsection (d) of Section 11-20-12,
4 subsection (e) of Section 11-20-13, subsection (j) of
5 Section 11-20-17, or Section 11-31-1.01, as applicable.

6 If, for any abandoned residential property, the
7 municipality engaged in any activity on more than one occasion
8 during the course of one year, then the municipality may
9 combine any or all of the costs of each of those activities
10 into a single notice of lien.

11 (c) To enforce a lien pursuant to this Section, the
12 municipality must maintain contemporaneous records that
13 include, at a minimum: (i) a dated statement of finding by the
14 municipality that the property for which the work is to be
15 performed has become abandoned residential property, which
16 shall include (1) the date when the property was first known or
17 observed to be unoccupied by any lawful occupant or occupants,
18 (2) a description of the actions taken by the municipality to
19 contact the legal owner or owners of the property identified on
20 the recorded mortgage, or, if known, any agent of the owner or
21 owners, including the dates such actions were taken, and (3) a
22 statement that no contacts were made with the legal owner or
23 owners or their agents as a result of such actions, (ii) a
24 dated certification by an authorized official of the
25 municipality of the necessity and specific nature of the work
26 to be performed, (iii) a copy of the agreement with the person

1 or entity performing the work that includes the legal name of
2 the person or entity, the rate or rates to be charged for
3 performing the work, and an estimate of the total cost of the
4 work to be performed, (iv) detailed invoices and payment
5 vouchers for all payments made by the municipality for such
6 work, and (v) a statement as to whether the work was engaged
7 through a competitive bidding process, and if so, a copy of all
8 proposals submitted by the bidders for such work.

9 (d) A lien under this Section shall be enforceable
10 exclusively at the hearing for confirmation of sale of the
11 abandoned residential property that is held pursuant to
12 subsection (b) of Section 15-1508 of the Code of Civil
13 Procedure and shall be limited to a claim of interest in the
14 proceeds of the sale and subject to the requirements of this
15 Section. Any mortgagee who holds a mortgage on the property, or
16 any beneficiary or trustee who holds a deed of trust on the
17 property, may contest the lien or the amount of the lien at any
18 time during the foreclosure proceeding upon motion and notice
19 in accordance with court rules applicable to motions generally.
20 Grounds for forfeiture of the lien or the superior status of
21 the lien granted by subsection (a) of this Section shall
22 include, but not be limited to, a finding by the court that:
23 (i) the municipality has not complied with subsection (b) or
24 (c) of this Section, (ii) the scope of the work was not
25 reasonable under the circumstances, (iii) the work exceeded the
26 authorization for the work to be performed under subsection (a)

1 of Section 11-20-7, subsection (a) of Section 11-20-8,
2 subsection (a) of Section 11-20-12, subsection (a) of Section
3 11-20-13, or subsection (a) of Section 11-31-1.01, as
4 applicable, or (iv) the cost of the services rendered or
5 materials provided was not commercially reasonable. Forfeiture
6 of the superior status of the lien otherwise granted by this
7 Section shall not constitute a forfeiture of the lien as a
8 subordinate lien.

9 (e) Upon payment of the amount of a lien filed under this
10 Section by the mortgagee, servicer, owner, or any other person,
11 the municipality shall release the lien, and the release may be
12 filed of record by the person making such payment at the
13 person's sole expense as in the case of filing notice of lien.

14 (f) Notwithstanding any other provision of this Section, a
15 municipality may not file a lien pursuant to this Section for
16 activities performed pursuant to Section 11-20-7, Section
17 11-20-8, Section 11-20-12, Section 11-20-13, or Section
18 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
19 residential property has provided notice to the municipality
20 that the mortgagee or servicer has performed or will perform
21 the remedial actions specified in the notice that the
22 municipality otherwise might perform pursuant to subsection
23 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
24 subsection (d) of Section 11-20-12, subsection (e) of Section
25 11-20-13, or Section 11-31-1.01, provided that the remedial
26 actions specified in the notice have been performed or are

1 performed or initiated in good faith within 30 days of such
2 notice; or (ii) the municipality has provided notice to the
3 mortgagee or servicer of a problem with the property requiring
4 the remedial actions specified in the notice that the
5 municipality otherwise would perform pursuant to subsection
6 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
7 subsection (d) of Section 11-20-12, subsection (e) of Section
8 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
9 has performed or performs or initiates in good faith the
10 remedial actions specified in the notice within 30 days of such
11 notice.

12 (g) This Section and subsection (d) of Section 11-20-7,
13 subsection (d) of Section 11-20-8, subsection (d) of Section
14 11-20-12, subsection (e) of Section 11-20-13, subsection (j) of
15 Section 11-20-17, or Section 11-31-1.01 shall apply only to
16 activities performed, costs incurred, and liens filed after
17 March 1, 2010 (the effective date of Public ~~this amendatory~~ Act
18 ~~96-856~~ of the 96th General Assembly. Subsection (j) of Section
19 11-20-17 shall apply only to activities performed, costs
20 incurred, and liens filed after the effective date of this
21 amendatory Act of the 96th General Assembly.

22 (h) For the purposes of this Section and subsection (d) of
23 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
24 (d) of Section 11-20-12, subsection (e) of Section 11-20-13,
25 subsection (j) of Section 11-20-17, or Section 11-31-1.01:

26 "Abandoned residential property" means any type of

1 permanent residential dwelling unit, including detached single
2 family structures, and townhouses, condominium units and
3 multifamily rental apartments covering the entire property,
4 and manufactured homes treated under Illinois law as real
5 estate and not as personal property, that has been unoccupied
6 by any lawful occupant or occupants for at least 90 days, and
7 for which after such 90 day period, the municipality has made
8 good faith efforts to contact the legal owner or owners of the
9 property identified on the recorded mortgage, or, if known, any
10 agent of the owner or owners, and no contact has been made. A
11 property for which the municipality has been given notice of
12 the order of confirmation of sale pursuant to subsection (b-10)
13 of Section 15-1508 of the Code of Civil Procedure shall not be
14 deemed to be an abandoned residential property for the purposes
15 of subsection (d) of Section 11-20-7, subsection (d) of Section
16 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
17 Section 11-20-13, subsection (j) of Section 11-20-17, and
18 Section 11-31-1.01 of this Code.

19 "MERS program" means the nationwide Mortgage Electronic
20 Registration System approved by Fannie Mae, Freddie Mac, and
21 Ginnie Mae that has been created by the mortgage banking
22 industry with the mission of registering every mortgage loan in
23 the United States to lawfully make information concerning each
24 residential mortgage loan and the property securing it
25 available by Internet access to mortgage originators,
26 servicers, warehouse lenders, wholesale lenders, retail

1 lenders, document custodians, settlement agents, title
2 companies, insurers, investors, county recorders, units of
3 local government, and consumers.

4 (i) Any entity or person who performs a removal, securing,
5 or enclosing activity pursuant to the authority of a
6 municipality under subsection (d) of Section 11-20-7,
7 subsection (d) of Section 11-20-8, subsection (d) of Section
8 11-20-12, subsection (e) of Section 11-20-13, subsection (j) of
9 Section 11-20-17, or Section 11-31-1.01, may, in its, his, or
10 her own name, file a lien pursuant to subsection (b) of this
11 Section and appear in a foreclosure action on that lien
12 pursuant to subsection (d) of this Section in the place of the
13 municipality, provided that the municipality shall remain
14 subject to subsection (c) of this Section, and such party shall
15 be subject to all of the provisions in this Section as if such
16 party were the municipality.

17 (j) If prior to subsection (d) of Section 11-20-7,
18 subsection (d) of Section 11-20-8, subsection (d) of Section
19 11-20-12, ~~and~~ subsection (e) of Section 11-20-13, and
20 subsection (j) of Section 11-20-17 becoming inoperative a lien
21 is filed pursuant to any of those subsections, then the lien
22 shall remain in full force and effect after the subsections
23 have become inoperative, subject to all of the provisions of
24 this Section. If prior to the repeal of Section 11-31-1.01 a
25 lien is filed pursuant to Section 11-31-1.01, then the lien
26 shall remain in full force and effect after the repeal of

1 Section 11-31-1.01, subject to all of the provisions of this
2 Section.

3 (Source: P.A. 96-856, eff. 3-1-10.)

4 (65 ILCS 5/11-20-17 new)

5 Sec. 11-20-17. Vacant and abandoned property.

6 (a) For the purposes of this Section, "municipality" means
7 a municipality with a population of over 2,000,000.

8 (b) For the purposes of minimizing the hazards to persons
9 and property resulting from vacant and abandoned property, the
10 corporate authority of each municipality may prescribe rules,
11 regulations, or ordinances for the maintenance of vacant and
12 abandoned property. The corporate authorities of a
13 municipality may impose registration fees for vacant and
14 abandoned property and fines for failure to comply with the
15 rules, regulations, or ordinances enacted pursuant to this
16 Section.

17 (c) Pursuant to those rules, regulations, or ordinances,
18 the corporate authorities of each municipality may hold
19 responsible for maintaining and securing a vacant property (i)
20 any owner of the property, (ii) any previous owner of the
21 property who conveyed the property during the time it was
22 vacant and failed to comply with any local rule, regulation, or
23 ordinance requiring the owner to provide the municipality
24 contact information of the person or entity to whom the owner
25 conveyed the property until the previous owner has provided the

1 information requested by the municipality under any such local
2 rule, regulation, or ordinance, (iii) any trust beneficiary or
3 other trustee who holds a deed of trust on the property, (iv)
4 any mortgagee who holds a mortgage on the property, and (v) any
5 assignee of an owner, beneficiary, trustee, or mortgagee.

6 (d) A beneficiary, trustee, or mortgagee seeking to comply
7 with rules, regulations, or ordinances regarding maintenance
8 or security of vacant property may enter that property to
9 remedy any potential violation of a rule, regulation, or
10 ordinance to maintain or secure vacant property, provided that
11 entry is not barred by an automatic stay issued by a bankruptcy
12 court.

13 (e) Beneficiaries, trustees, mortgagees, and their agents
14 and assignees shall be held harmless from and against all
15 claims of negligence, civil trespass, and criminal trespass in
16 connection with compliance activity under the rules,
17 regulations, and ordinances for the maintenance or security of
18 vacant property, provided that the person authorizing or
19 engaging in the compliance activity has (i) made a good faith
20 effort to identify any owner and occupant of the property and
21 (ii) made a good faith effort to contact any owner and occupant
22 in a manner reasonably calculated to give the owner and
23 occupant notice that the compliance activity is imminent.

24 (f) For the purpose of this Section, "owner" means the
25 legal or beneficial owner of an improved or unimproved parcel
26 of real estate.

1 (g) For the purpose of this Section, "mortgagee" means (i)
2 the holder of an indebtedness, the obligee of a non-monetary
3 obligation secured by a mortgage, any assignee of the mortgage,
4 or any person designated or authorized to act on behalf of such
5 holder, (ii) any person or entity who previously initiated a
6 foreclosure on the vacant property or obtained a foreclosure
7 judgment against the vacant property if the deed to vacant
8 property has not been transferred to the purchaser at the
9 judicial sale, and (iii) any person claiming through a
10 mortgagee as successor.

11 (h) For the purpose of this Section, "vacant property"
12 means any property having complete or incomplete structures
13 that are empty or otherwise uninhabited.

14 (i) For the purpose of this Section, "removal cost" means
15 the total value of fees and fines imposed pursuant to rules,
16 regulations, or ordinances regarding maintenance, security, or
17 demolition of vacant property.

18 (j) To enforce fees and fines pursuant to this Section, a
19 municipality has the following options: (i) the municipality
20 may elect to obtain a lien upon the underlying property for the
21 removal cost in accordance with Section 11-20-15; (ii) in the
22 case of an abandoned residential property as defined in Section
23 11-20-15.1, the municipality may elect to obtain a lien for the
24 removal cost pursuant to Section 11-20-15.1, in which case the
25 provisions of Section 11-20-15.1 shall be the exclusive remedy
26 for the removal cost; or (iii) the municipality may elect to

1 obtain a lien for the removal cost by exercising any
2 enforcement actions available under its police powers.".