



Rep. Donald L. Moffitt

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1 AMENDMENT TO HOUSE BILL 5829

2 AMENDMENT NO. _____. Amend House Bill 5829 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Property Tax Code is amended by changing
5 Section 21-90 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 for
9 each of 2 or more years, and is offered for sale under any of
10 the provisions of this Code, the County Board of the County in
11 which the property is located, in its discretion, may bid, or,
12 in the case of forfeited property, may apply to purchase it, in
13 the name of the County as trustee for all taxing districts
14 having an interest in the property's taxes or special
15 assessments for the nonpayment of which the property is sold.
16 The presiding officer of the county board, with the advice and

1 consent of the Board, may appoint on its behalf some officer or
2 person to attend such sales and bid or, in the case of
3 forfeited property, to apply to the county clerk to purchase.
4 The County shall apply on the bid or purchase the unpaid taxes
5 and special assessments due upon the property. No cash need be
6 paid. The County shall take all steps necessary to acquire
7 title to the property and may manage and operate the property.
8 When a county, or other taxing district within the county, is a
9 petitioner for a tax deed, no filing fee shall be required.
10 When a county or other taxing district within the county is the
11 petitioner for a tax deed, one petition may be filed including
12 all parcels that are tax delinquent within the county or taxing
13 district, and any publication made under Section 22-20 of this
14 Code may combine all such parcels within a single notice. The
15 notice shall list the street or common address, if known, of
16 the parcels for informational purposes. The county, as tax
17 creditor and as trustee for other tax creditors, or other
18 taxing district within the county, shall not be required to
19 allege and prove that all taxes and special assessments which
20 become due and payable after the sale to the county have been
21 paid nor shall the county be required to pay the subsequently
22 accruing taxes or special assessments at any time. The county
23 board or its designee may prohibit the county collector from
24 including the property in the tax sale of one or more
25 subsequent years. The lien of taxes and special assessments
26 which become due and payable after a sale to a county shall

1 merge in the fee title of the county, or other taxing district
2 within the county, on the issuance of a deed.

3 The County may sell or assign the property so acquired, or
4 the certificate of purchase to it, to any party, including
5 taxing districts. The proceeds of that sale or assignment, less
6 all costs of the county incurred in the acquisition and sale or
7 assignment of the property, shall be distributed to the taxing
8 districts in proportion to their respective interests therein.

9 The county may convey its interest in any vacant non-farm
10 property of an irregular shape or size acquired under this
11 Section, including the certificate of purchase to that
12 property, to any adjacent property owner for no consideration,
13 provided that all adjacent property owners are notified by
14 certified mail of the county's intent to convey the property at
15 least 60 days prior to the conveyance.

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

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

19 Section 10. The Illinois Municipal Code is amended by
20 changing Section 11-31-1 as follows:

21 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

22 Sec. 11-31-1. Demolition, repair, enclosure, or
23 remediation.

24 (a) The corporate authorities of each municipality may

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

14 The corporate authorities shall apply to the circuit court
15 of the county in which the building is located (i) for an order
16 authorizing action to be taken with respect to a building if
17 the owner or owners of the building, including the lien holders
18 of record, after at least 15 days' written notice by mail so to
19 do, have failed to put the building in a safe condition or to
20 demolish it or (ii) for an order requiring the owner or owners
21 of record to demolish, repair, or enclose the building or to
22 remove garbage, debris, and other hazardous, noxious, or
23 unhealthy substances or materials from the building. It is not
24 a defense to the cause of action that the building is boarded
25 up or otherwise enclosed, although the court may order the
26 defendant to have the building boarded up or otherwise

1 enclosed. Where, upon diligent search, the identity or
2 whereabouts of the owner or owners of the building, including
3 the lien holders of record, is not ascertainable, notice mailed
4 to the person or persons in whose name the real estate was last
5 assessed is sufficient notice under this Section.

6 The hearing upon the application to the circuit court shall
7 be expedited by the court and shall be given precedence over
8 all other suits. Any person entitled to bring an action under
9 subsection (b) shall have the right to intervene in an action
10 brought under this Section.

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

1 The notice must consist of a sworn statement setting out
2 (1) a description of the real estate sufficient for its
3 identification, (2) the amount of money representing the cost
4 and expense incurred, and (3) the date or dates when the cost
5 and expense was incurred by the municipality, the lien holder
6 of record, or the intervenor. Upon payment of the cost and
7 expense by the owner of or persons interested in the property
8 after the notice of lien has been filed, the lien shall be
9 released by the municipality, the person in whose name the lien
10 has been filed, or the assignee of the lien, and the release
11 may be filed of record as in the case of filing notice of lien.
12 Unless the lien is enforced under subsection (c), the lien may
13 be enforced by foreclosure proceedings as in the case of
14 mortgage foreclosures under Article XV of the Code of Civil
15 Procedure or mechanics' lien foreclosures. An action to
16 foreclose this lien may be commenced at any time after the date
17 of filing of the notice of lien. The costs of foreclosure
18 incurred by the municipality, including court costs,
19 reasonable attorney's fees, advances to preserve the property,
20 and other costs related to the enforcement of this subsection,
21 plus statutory interest, are a lien on the real estate and are
22 recoverable by the municipality from the owner or owners of the
23 real estate.

24 All liens arising under this subsection (a) shall be
25 assignable. The assignee of the lien shall have the same power
26 to enforce the lien as the assigning party, except that the

1 lien may not be enforced under subsection (c).

2 If the appropriate official of any municipality determines
3 that any dangerous and unsafe building or uncompleted and
4 abandoned building within its territory fulfills the
5 requirements for an action by the municipality under the
6 Abandoned Housing Rehabilitation Act, the municipality may
7 petition under that Act in a proceeding brought under this
8 subsection.

9 (b) Any owner or tenant of real property within 1200 feet
10 in any direction of any dangerous or unsafe building located
11 within the territory of a municipality with a population of
12 500,000 or more may file with the appropriate municipal
13 authority a request that the municipality apply to the circuit
14 court of the county in which the building is located for an
15 order permitting the demolition, removal of garbage, debris,
16 and other noxious or unhealthy substances and materials from,
17 or repair or enclosure of the building in the manner prescribed
18 in subsection (a) of this Section. If the municipality fails to
19 institute an action in circuit court within 90 days after the
20 filing of the request, the owner or tenant of real property
21 within 1200 feet in any direction of the building may institute
22 an action in circuit court seeking an order compelling the
23 owner or owners of record to demolish, remove garbage, debris,
24 and other noxious or unhealthy substances and materials from,
25 repair or enclose or to cause to be demolished, have garbage,
26 debris, and other noxious or unhealthy substances and materials

1 removed from, repaired, or enclosed the building in question. A
2 private owner or tenant who institutes an action under the
3 preceding sentence shall not be required to pay any fee to the
4 clerk of the circuit court. The cost of repair, removal,
5 demolition, or enclosure shall be borne by the owner or owners
6 of record of the building. In the event the owner or owners of
7 record fail to demolish, remove garbage, debris, and other
8 noxious or unhealthy substances and materials from, repair, or
9 enclose the building within 90 days of the date the court
10 entered its order, the owner or tenant who instituted the
11 action may request that the court join the municipality as a
12 party to the action. The court may order the municipality to
13 demolish, remove materials from, repair, or enclose the
14 building, or cause that action to be taken upon the request of
15 any owner or tenant who instituted the action or upon the
16 municipality's request. The municipality may file, and the
17 court may approve, a plan for rehabilitating the building in
18 question. A court order authorizing the municipality to
19 demolish, remove materials from, repair, or enclose a building,
20 or cause that action to be taken, shall not preclude the court
21 from adjudging the owner or owners of record of the building in
22 contempt of court due to the failure to comply with the order
23 to demolish, remove garbage, debris, and other noxious or
24 unhealthy substances and materials from, repair, or enclose the
25 building.

26 If a municipality or a person or persons other than the

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

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

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

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

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

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

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

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

1 subsection, however, the redemption period described in
2 subsection (b) of Section 15-1603 of the Code of Civil
3 Procedure shall end 60 days after the date of entry of the
4 order of foreclosure.

5 (d) In addition to any other remedy provided by law, the
6 corporate authorities of any municipality may petition the
7 circuit court to have property declared abandoned under this
8 subsection (d) if:

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

12 (2) the property is unoccupied by persons legally in
13 possession; and

14 (3) the property contains a dangerous or unsafe
15 building for reasons specified in the petition, or the
16 property is not being maintained, as evidenced by the fact
17 that the corporate authorities of the municipality have
18 abated a code violation on the property, as defined under
19 Division 31.1 of this Article, more than 3 times within the
20 most recent 12 month period.

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

1 The municipality, however, may proceed under this
2 subsection in a proceeding brought under subsection (a) or (b).
3 Notice of the petition shall be served in person or by
4 certified or registered mail on all persons who were served
5 notice under subsection (a) or (b).

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

20 If that determination is made, notice shall be sent in
21 person or by certified or registered mail to all persons having
22 an interest of record in the property, including tax purchasers
23 and beneficial owners of any Illinois land trust having title
24 to the property, stating that title to the property will be
25 transferred to the municipality unless, within 30 days of the
26 notice, the owner of record or any other person having an

1 interest in the property files with the court a request to
2 demolish the dangerous or unsafe building or to put the
3 building in safe condition, or unless the owner of record
4 enters an appearance and proves that the owner does not intend
5 to abandon the property.

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

23 If a request to demolish or repair the building is filed
24 within the 30 day period, the court shall grant permission to
25 the requesting party to demolish the building within 30 days or
26 to restore the building to safe condition within 60 days after

1 the request is granted. An extension of that period for up to
2 60 additional days may be given for good cause. If more than
3 one person with an interest in the property files a timely
4 request, preference shall be given to the owner of record if
5 the owner filed a request or, if the owner did not, the person
6 with the lien or other interest of the highest priority.

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

1 local safety codes within the period of time granted by the
2 court, the court shall dismiss the proceeding under this
3 subsection (d).

4 If the owner of record has not entered an appearance and
5 proven that the owner did not intend to abandon the property,
6 and if no person with an interest in the property files a
7 timely request or if the requesting party fails to demolish the
8 building or put the building in safe condition within the time
9 specified by the court, the municipality may petition the court
10 to issue a judicial deed for the property to the municipality.
11 A conveyance by judicial deed shall operate to extinguish all
12 existing ownership interests in, liens on, and other interest
13 in the property, including tax liens, and shall extinguish the
14 rights and interests of any and all holders of a bona fide
15 certificate of purchase of the property for delinquent taxes.
16 Any such bona fide certificate of purchase holder shall be
17 entitled to a sale in error as prescribed under Section 21-310
18 of the Property Tax Code.

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

23 If a residential or commercial building is 3 stories or
24 less in height as defined by the municipality's building code,
25 and the corporate official designated to be in charge of
26 enforcing the municipality's building code determines that the

1 building is open and vacant and an immediate and continuing
2 hazard to the community in which the building is located, then
3 the official shall be authorized to post a notice not less than
4 2 feet by 2 feet in size on the front of the building. The
5 notice shall be dated as of the date of the posting and shall
6 state that unless the building is demolished, repaired, or
7 enclosed, and unless any garbage, debris, and other hazardous,
8 noxious, or unhealthy substances or materials are removed so
9 that an immediate and continuing hazard to the community no
10 longer exists, then the building may be demolished, repaired,
11 or enclosed, or any garbage, debris, and other hazardous,
12 noxious, or unhealthy substances or materials may be removed,
13 by the municipality.

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

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

25 (2) Cause to be published, in a newspaper published or
26 circulated in the municipality where the building is

1 located, a notice setting forth (i) the permanent tax index
2 number and the address of the building, (ii) a statement
3 that the property is open and vacant and constitutes an
4 immediate and continuing hazard to the community, and (iii)
5 a statement that the municipality intends to demolish,
6 repair, or enclose the building or remove any garbage,
7 debris, or other hazardous, noxious, or unhealthy
8 substances or materials if the owner or owners or
9 lienholders of record fail to do so. This notice shall be
10 published for 3 consecutive days.

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

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

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

1 whichever is later, the corporate authorities shall have the
2 power to demolish, repair, or enclose the building or to remove
3 any garbage, debris, or other hazardous, noxious, or unhealthy
4 substances or materials.

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

1 or other substances will proceed unless, within 30 days after
2 the copy of the order and the letter are mailed, the objector
3 moves to vacate the dismissal and serves a copy of the motion
4 on the chief executive officer of the municipality.
5 Notwithstanding any other law to the contrary, if the objector
6 does not file a motion and give the required notice, if the
7 motion is denied by the court, or if the action is again
8 dismissed for want of prosecution, then the dismissal is with
9 prejudice and the demolition, repair, enclosure, or removal may
10 proceed forthwith.

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

1 of lien shall consist of a sworn statement setting forth (i) a
2 description of the real estate, such as the address or other
3 description of the property, sufficient for its
4 identification; (ii) the expenses incurred by the municipality
5 in undertaking the remedial actions authorized under this
6 subsection; (iii) the date or dates the expenses were incurred
7 by the municipality; (iv) a statement by the corporate official
8 responsible for enforcing the building code that the building
9 was open and vacant and constituted an immediate and continuing
10 hazard to the community; (v) a statement by the corporate
11 official that the required sign was posted on the building,
12 that notice was sent by certified mail to the owners of record,
13 and that notice was published in accordance with this
14 subsection; and (vi) a statement as to when and where the
15 notice was published. The lien authorized by this subsection
16 may thereafter be released or enforced by the municipality as
17 provided in subsection (a).

18 (f) The corporate authorities of each municipality may
19 remove or cause the removal of, or otherwise environmentally
20 remediate hazardous substances and petroleum products on, in,
21 or under any abandoned and unsafe property within the territory
22 of a municipality. In addition, where preliminary evidence
23 indicates the presence or likely presence of a hazardous
24 substance or a petroleum product or a release or a substantial
25 threat of a release of a hazardous substance or a petroleum
26 product on, in, or under the property, the corporate

1 authorities of the municipality may inspect the property and
2 test for the presence or release of hazardous substances and
3 petroleum products. In any county having adopted by referendum
4 or otherwise a county health department as provided by Division
5 5-25 of the Counties Code or its predecessor, the county board
6 of that county may exercise the above-described powers with
7 regard to property within the territory of any city, village,
8 or incorporated town having less than 50,000 population.

9 For purposes of this subsection (f):

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

12 (2) "abandoned" means;

13 (A) the property has been tax delinquent for 2 or
14 more years;

15 (B) the property is unoccupied by persons legally
16 in possession; and

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

20 (4) "hazardous substances" means the same as in Section
21 3.215 of the Environmental Protection Act.

22 The corporate authorities shall apply to the circuit court
23 of the county in which the property is located (i) for an order
24 allowing the municipality to enter the property and inspect and
25 test substances on, in, or under the property; or (ii) for an
26 order authorizing the corporate authorities to take action with

1 respect to remediation of the property if conditions on the
2 property, based on the inspection and testing authorized in
3 paragraph (i), indicate the presence of hazardous substances or
4 petroleum products. Remediation shall be deemed complete for
5 purposes of paragraph (ii) above when the property satisfies
6 Tier I, II, or III remediation objectives for the property's
7 most recent usage, as established by the Environmental
8 Protection Act, and the rules and regulations promulgated
9 thereunder. Where, upon diligent search, the identity or
10 whereabouts of the owner or owners of the property, including
11 the lien holders of record, is not ascertainable, notice mailed
12 to the person or persons in whose name the real estate was last
13 assessed is sufficient notice under this Section.

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

1 groundwater monitoring. The court shall grant a remediation
2 order under paragraph (ii) above where testing of the property
3 indicates that it fails to meet the applicable remediation
4 objectives. The hearing upon the application to the circuit
5 court shall be expedited by the court and shall be given
6 precedence over all other suits.

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

26 The notice must consist of a sworn statement setting out

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

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

1 estate.

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

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

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