

1 AN ACT concerning municipalities.

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

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

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

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

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

23 The corporate authorities shall apply to the circuit  
24 court of the county in which the building is located (i) for  
25 an order authorizing action to be taken with respect to a  
26 building if the owner or owners of the building, including  
27 the lien holders of record, after at least 15 days' written  
28 notice by mail so to do, have failed to put the building in a  
29 safe condition or to demolish it or (ii) for an order  
30 requiring the owner or owners of record to demolish, repair,  
31 or enclose the building or to remove garbage, debris, and

1 other hazardous, noxious, or unhealthy substances or  
2 materials from the building. It is not a defense to the  
3 cause of action that the building is boarded up or otherwise  
4 enclosed, although the court may order the defendant to have  
5 the building boarded up or otherwise enclosed. Where, upon  
6 diligent search, the identity or whereabouts of the owner or  
7 owners of the building, including the lien holders of record,  
8 is not ascertainable, notice mailed to the person or persons  
9 in whose name the real estate was last assessed is sufficient  
10 notice under this Section.

11 The hearing upon the application to the circuit court  
12 shall be expedited by the court and shall be given precedence  
13 over all other suits. Any person entitled to bring an action  
14 under subsection (b) shall have the right to intervene in an  
15 action brought under this Section.

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

32 The notice must consist of a sworn statement setting out  
33 (1) a description of the real estate sufficient for its  
34 identification, (2) the amount of money representing the cost

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

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

25 If the appropriate official of any municipality  
26 determines that any dangerous and unsafe building or  
27 uncompleted and abandoned building within its territory  
28 fulfills the requirements for an action by the municipality  
29 under the Abandoned Housing Rehabilitation Act, the  
30 municipality may petition under that Act in a proceeding  
31 brought under this subsection.

32 (b) Any owner or tenant of real property within 1200  
33 feet in any direction of any dangerous or unsafe building  
34 located within the territory of a municipality with a

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

1 demolish, remove materials from, repair, or enclose a  
2 building, or cause that action to be taken, shall not  
3 preclude the court from adjudging the owner or owners of  
4 record of the building in contempt of court due to the  
5 failure to comply with the order to demolish, remove garbage,  
6 debris, and other noxious or unhealthy substances and  
7 materials from, repair, or enclose the building.

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

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

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

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

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

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

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

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

24 (d) In addition to any other remedy provided by law, the  
25 corporate authorities of any municipality may petition the  
26 circuit court to have property declared abandoned under this  
27 subsection (d) if:

28 (1) the property has been tax delinquent for 2 or  
29 more years or bills for water service for the property  
30 have been outstanding for 2 or more years;

31 (2) the property is unoccupied by persons legally  
32 in possession; and

33 (3) the property contains a dangerous or unsafe  
34 building.

1 All persons having an interest of record in the property,  
2 including tax purchasers and beneficial owners of any  
3 Illinois land trust having title to the property, shall be  
4 named as defendants in the petition and shall be served with  
5 process. In addition, service shall be had under Section  
6 2-206 of the Code of Civil Procedure as in other cases  
7 affecting property.

8 The municipality, however, may proceed under this  
9 subsection in a proceeding brought under subsection (a) or  
10 (b). Notice of the petition shall be served by certified or  
11 registered mail on all persons who were served notice under  
12 subsection (a) or (b).

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

20 If that determination is made, notice shall be sent by  
21 certified or registered mail to all persons having an  
22 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 enters an appearance in the  
27 action, or unless any other person having an interest in the  
28 property files with the court a request to demolish the  
29 dangerous or unsafe building or to put the building in safe  
30 condition.

31 If the owner of record enters an appearance in the action  
32 within the 30 day period, the court shall vacate its order  
33 declaring the property abandoned. In that case, the  
34 municipality may amend its complaint in order to initiate



1 proceedings under subsection (a).

2 If a request to demolish or repair the building is filed  
3 within the 30 day period, the court shall grant permission to  
4 the requesting party to demolish the building within 30 days  
5 or to restore the building to safe condition within 60 days  
6 after the request is granted. An extension of that period  
7 for up to 60 additional days may be given for good cause. If  
8 more than one person with an interest in the property files a  
9 timely request, preference shall be given to the person with  
10 the lien or other interest of the highest priority.

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

28 If no person with an interest in the property files a  
29 timely request or if the requesting party fails to demolish  
30 the building or put the building in safe condition within the  
31 time specified by the court, the municipality may petition  
32 the court to issue a judicial deed for the property to the  
33 municipality. A conveyance by judicial deed shall operate to  
34 extinguish all existing ownership interests in, liens on, and

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

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

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

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

31 (1) Cause to be sent, by certified mail, return  
32 receipt requested, a Notice to Remediate to all owners  
33 of record of the property, the beneficial owners of any  
34 Illinois land trust having title to the property, and all

1       lienholders of record in the property, stating the intent  
2       of the municipality to demolish, repair, or enclose the  
3       building or remove any garbage, debris, or other  
4       hazardous, noxious, or unhealthy substances or materials  
5       if that action is not taken by the owner or owners.

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

18               (3) Cause to be recorded the Notice to Remediate  
19       mailed under paragraph (1) in the office of the recorder  
20       in the county in which the real estate is located or in  
21       the office of the registrar of titles of the county if  
22       the real estate is registered under the Registered Title  
23       (Torrens) Act.

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

28       If the building is not demolished, repaired, or enclosed,  
29       or the garbage, debris, or other hazardous, noxious, or  
30       unhealthy substances or materials are not removed, within 30  
31       days of mailing the notice to the owners of record, the  
32       beneficial owners of any Illinois land trust having title to  
33       the property, and all lienholders of record in the property,  
34       or within 30 days of the last day of publication of the

1 notice, whichever is later, the corporate authorities shall  
2 have the power to demolish, repair, or enclose the building  
3 or to remove any garbage, debris, or other hazardous,  
4 noxious, or unhealthy 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  
8 under this subsection within a 120-day period following the  
9 date of 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  
16 interest in the property has sought a hearing under this  
17 subsection before a court and has served a copy of the  
18 complaint on the chief executive officer of the municipality,  
19 then the municipality shall not proceed with the demolition,  
20 repair, enclosure, or removal of garbage, debris, or other  
21 substances until the court determines that that action is  
22 necessary to remedy the hazard and issues an order  
23 authorizing the municipality to do so. If the court dismisses  
24 the action for want of prosecution, the municipality must  
25 send the objector a copy of the dismissal order and a letter  
26 stating that the demolition, repair, enclosure, or removal of  
27 garbage, debris, or other substances will proceed unless,  
28 within 30 days after the copy of the order and the letter are  
29 mailed, the objector moves to vacate the dismissal and serves  
30 a copy of the motion on the chief executive officer of the  
31 municipality. Notwithstanding any other law to the  
32 contrary, if the objector does not file a motion and give the  
33 required notice, if the motion is denied by the court, or if  
34 the action is again dismissed for want of prosecution, then

1 the dismissal is with prejudice and the demolition, repair,  
2 enclosure, or removal may proceed forthwith.

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

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

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

21 For purposes of this subsection (f):

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

24 (2) "abandoned" means;

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

27 (B) the property is unoccupied by persons  
28 legally in possession; and

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

32 (4) "hazardous substances" means the same as in  
33 Section 3.14 of the Environmental Protection Act.

34 The corporate authorities shall apply to the circuit

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

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

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

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

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



1 lien.

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

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

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

32 (Source: P.A. 91-162, eff. 7-16-99; 91-177, eff. 1-1-00;  
33 91-357, eff. 7-29-99; 91-542, eff. 1-1-00; 91-561, eff.  
34 1-1-00; 92-16, eff. 6-28-01.)