

AN ACT concerning property.

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

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

(35 ILCS 200/21-90)

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

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

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

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

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

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

(35 ILCS 200/21-215)

Sec. 21-215. Penalty bids. The person at the sale offering to pay the amount due on each property for the least penalty percentage shall be the purchaser of that property. No bid shall be accepted for a penalty exceeding 9% ~~10%~~ of the amount of the tax or special assessment on property.

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

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

(55 ILCS 5/5-1121)

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

(a) The county board of each county may demolish, repair,

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

The county board shall apply to the circuit court of the county in which the building is located (i) for an order authorizing action to be taken with respect to a building if the owner or owners of the building, including the lien holders of record, after at least 15 days' written notice by mail to do so, have failed to commence proceedings to put the building in a safe condition or to demolish it or (ii) for an order requiring the owner or owners of record to demolish, repair, or enclose the building or to remove garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from the building. It is not a defense to the cause of action that the building is boarded up or otherwise enclosed, although the court may order the defendant to have the building boarded up or otherwise enclosed. Where, upon diligent search, the identity or whereabouts of the owner or owners of the building, including the lien holders of record, is not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed and the posting of such notice upon the premises sought to be demolished or repaired is sufficient notice under this Section.

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

The cost of the demolition, repair, enclosure, or removal incurred by the county, by an intervenor, or by a lien holder of record, including court costs, attorney's fees, and other

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

The notice must consist of a sworn statement setting out (1) a description of the real estate sufficient for its identification, (2) the amount of money representing the cost and expense incurred, and (3) the date or dates when the cost and expense was incurred by the county, the lien holder of record, or the intervenor. Upon payment of the cost and expense by the owner of or persons interested in the property after the notice of lien has been filed, the lien shall be released by the county, the person in whose name the lien has been filed, or the assignee of the lien, and the release may be filed of record as in the case of filing notice of lien. Unless the lien is enforced under subsection (b), the lien may be enforced by foreclosure proceedings as in the case of mortgage

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

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

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

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

A county desiring to enforce a lien under this subsection (b) shall petition the court to retain jurisdiction for foreclosure proceedings under this subsection. Notice of the

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

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

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

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

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

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

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

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

All persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, shall be named as defendants in the petition and shall be served with process. In addition, service shall be had under Section 2-206 of the Code of Civil Procedure as in other cases affecting property, including publication in a newspaper that is in circulation in the county in which the action is pending. At least 30 days prior to any declaration of abandonment, the county or its agent shall post a notice not less than 1 foot by 1 foot in size on the front of the subject building or property. The

notice shall be dated as of the date of the posting and state that the county is seeking a declaration of abandonment for the property. The notice shall also include the case number for the underlying circuit court petition filed pursuant to this subsection and a notification that the owner should file an appearance in the matter if the property is not abandoned.

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

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

If that determination is made, notice shall be sent by certified or registered mail to all persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, stating that title to the property will be transferred to the county unless, within 30 days of the notice, the owner of record enters an appearance in the action, or unless any other person having an interest in the property files with the court a request to demolish any or all

~~the~~ dangerous or unsafe buildings ~~building~~ or to put the property ~~building~~ in safe condition.

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

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

If the requesting party proves to the court that the building has been demolished or put in a safe condition within the period of time granted by the court, the court shall issue a quitclaim judicial deed for the property to the requesting party, conveying only the interest of the owner of record, upon proof of payment to the county of all costs incurred by the county in connection with the action, including but not limited to court costs, attorney's fees, administrative costs,

the costs, if any, associated with property maintenance
~~building enclosure or removal~~, and receiver's certificates.
The interest in the property so conveyed shall be subject to
all liens and encumbrances on the property. In addition, if
the interest is conveyed to a person holding a certificate of
purchase for the property under the Property Tax Code, the
conveyance shall be subject to the rights of redemption of all
persons entitled to redeem under that Act, including the
original owner of record.

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

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

If the official designated to be in charge of enforcing
the county's building code determines that a building is open
and vacant and an immediate and continuing hazard to the
community in which the building is located, then the official

shall be authorized to post a notice not less than 2 feet by 2 feet in size on the front of the building. The notice shall be dated as of the date of the posting and shall state that unless the building is demolished, repaired, or enclosed, and unless any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials are removed so that an immediate and continuing hazard to the community no longer exists, then the building may be demolished, repaired, or enclosed, or any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials may be removed, by the county.

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

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

(2) Cause to be published, in a newspaper published or circulated in the county where the building is located, a notice setting forth (i) the permanent tax index number and the address of the building, (ii) a statement that the

property is open and vacant and constitutes an immediate and continuing hazard to the community, and (iii) a statement that the county intends to demolish, repair, or enclose the building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials if the owner or owners or lienholders of record fail to do so. This notice shall be published for 3 consecutive days.

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

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

The county may proceed to demolish, repair, or enclose a building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials under this subsection within a 120-day period following the date of the

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

Following the demolition, repair, or enclosure of a building, or the removal of garbage, debris, or other hazardous, noxious, or unhealthy substances or materials under this subsection, the county may file a notice of lien against the real estate for the cost of the demolition, repair, enclosure, or removal within 180 days after the repair, demolition, enclosure, or removal occurred, for the cost and expense incurred, in the office of the recorder in the county in which the real estate is located or in the office of the registrar of titles of the county if the real estate affected is registered under the Registered Titles (Torrens) Act. The notice of lien shall consist of a sworn statement setting forth (i) a description of the real estate, such as the address

or other description of the property, sufficient for its identification; (ii) the expenses incurred by the county in undertaking the remedial actions authorized under this subsection; (iii) the date or dates the expenses were incurred by the county; (iv) a statement by the official responsible for enforcing the building code that the building was open and vacant and constituted an immediate and continuing hazard to the community; (v) a statement by the official that the required sign was posted on the building, that notice was sent by certified mail to the owners of record, and that notice was published in accordance with this subsection; and (vi) a statement as to when and where the notice was published. The lien authorized by this subsection may thereafter be released or enforced by the county as provided in subsection (a).

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

(f) In addition to any other remedy provided by law, if a county finds that within a residential property of 1 acre or less there is an accumulation or concentration of: garbage;

organic materials in an active state of decomposition including, but not limited to, carcasses, food waste, or other spoiled or rotting materials; human or animal waste; debris; or other hazardous, noxious, or unhealthy substances or materials, which present an immediate threat to the public health or safety or the health and safety of the occupants of the property, the county may, without any administrative procedure to bond, petition the court for immediate injunctive relief to abate or cause the abatement of the condition that is causing the threat to health or safety, including an order causing the removal of any unhealthy or unsafe accumulations or concentrations of the material or items listed in this subsection from the structure or property. The county shall file with the circuit court in which the property is located a petition for an order authorizing the abatement of the condition that is causing the threat to health or safety. A hearing on the petition shall be set within 5 days, not including weekends or holidays, from the date of filing. To provide notice of such hearing, the county shall make every effort to serve the property's owners of record with the petition and summons and, if such service cannot be had, shall provide an affidavit to the court at the hearing showing the service could not be had and the efforts taken to locate and serve the owners of record. The county shall also post a sign at the property notifying all persons of the court proceeding. Following the abatement actions, the county may file a notice

of lien for the cost and expense of actions taken under this subsection as provided in subsection (a).

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

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

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

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

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

The corporate authorities shall apply to the circuit court of the county in which the building is located (i) for an order

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

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

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

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

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

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

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

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

(b) Any owner or tenant of real property within 1200 feet in any direction of any dangerous or unsafe building located within the territory of a municipality with a population of 500,000 or more may file with the appropriate municipal authority a request that the municipality apply to the circuit court of the county in which the building is located for an

order permitting the demolition, removal of garbage, debris, and other noxious or unhealthy substances and materials from, or repair or enclosure of the building in the manner prescribed in subsection (a) of this Section. If the municipality fails to institute an action in circuit court within 90 days after the filing of the request, the owner or tenant of real property within 1200 feet in any direction of the building may institute an action in circuit court seeking an order compelling the owner or owners of record to demolish, remove garbage, debris, and other noxious or unhealthy substances and materials from, repair or enclose or to cause to be demolished, have garbage, debris, and other noxious or unhealthy substances and materials removed from, repaired, or enclosed the building in question. A private owner or tenant who institutes an action under the preceding sentence shall not be required to pay any fee to the clerk of the circuit court. The cost of repair, removal, demolition, or enclosure shall be borne by the owner or owners of record of the building. In the event the owner or owners of record fail to demolish, remove garbage, debris, and other noxious or unhealthy substances and materials from, repair, or enclose the building within 90 days of the date the court entered its order, the owner or tenant who instituted the action may request that the court join the municipality as a party to the action. The court may order the municipality to demolish, remove materials from, repair, or enclose the building, or

cause that action to be taken upon the request of any owner or tenant who instituted the action or upon the municipality's request. The municipality may file, and the court may approve, a plan for rehabilitating the building in question. A court order authorizing the municipality to demolish, remove materials from, repair, or enclose a building, or cause that action to be taken, shall not preclude the court from adjudging the owner or owners of record of the building in contempt of court due to the failure to comply with the order to demolish, remove garbage, debris, and other noxious or unhealthy substances and materials from, repair, or enclose the building.

If a municipality or a person or persons other than the owner or owners of record pay the cost of demolition, removal of garbage, debris, and other noxious or unhealthy substances and materials, repair, or enclosure pursuant to a court order, the cost, including court costs, attorney's fees, and other costs related to the enforcement of this subsection, is recoverable from the owner or owners of the real estate and is a lien on the real estate; the lien is superior to all prior existing liens and encumbrances, except taxes, if, within 180 days after the repair, removal, demolition, or enclosure, the municipality or the person or persons who paid the costs of demolition, removal, repair, or enclosure shall file a notice of lien of the cost and expense incurred in the office of the recorder in the county in which the real estate is located or

in the office of the registrar of the county if the real estate affected is registered under the Registered Titles (Torrens) Act. The notice shall be in a form as is provided in subsection (a). An owner or tenant who institutes an action in circuit court seeking an order to compel the owner or owners of record to demolish, remove materials from, repair, or enclose any dangerous or unsafe building, or to cause that action to be taken under this subsection may recover court costs and reasonable attorney's fees for instituting the action from the owner or owners of record of the building. Upon payment of the costs and expenses by the owner or a person interested in the property after the notice of lien has been filed, the lien shall be released by the municipality or the person in whose name the lien has been filed or his or her assignee, and the release may be filed of record as in the case of filing a notice of lien. Unless the lien is enforced under subsection (c), the lien may be enforced by foreclosure proceedings as in the case of mortgage foreclosures under Article XV of the Code of Civil Procedure or mechanics' lien foreclosures. An action to foreclose this lien may be commenced at any time after the date of filing of the notice of lien. The costs of foreclosure incurred by the municipality, including court costs, reasonable attorneys' fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate and are recoverable by the municipality from the owner or owners of

the real estate.

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

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

A municipality desiring to enforce a lien under this subsection (c) shall petition the court to retain jurisdiction for foreclosure proceedings under this subsection. Notice of the petition shall be served, by certified or registered mail, on all persons who were served notice under subsection (a), (b), or (f). The court shall conduct a hearing on the petition not less than 15 days after the notice is served. If the court determines that the requirements of this subsection (c) have been satisfied, it shall grant the petition and retain jurisdiction over the matter until the foreclosure proceeding is completed. The costs of foreclosure incurred by the municipality, including court costs, reasonable attorneys' fees, advances to preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate and are recoverable by the municipality from the owner or owners of the real estate. If the court denies the petition, the municipality may enforce

the lien in a separate action as provided in subsection (a), (b), or (f).

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

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

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

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

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

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

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

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

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

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

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

If a request to demolish or repair a ~~the~~ building or property is filed within the 30 day period, the court shall grant permission to the requesting party to demolish the building or repair the property within ~~30 days or to restore the building to safe condition within~~ 60 days after the request is granted. An extension of that period for up to 60 additional days may be given for good cause. If more than one person with an interest in the property files a timely request, preference shall be given to the owner of record if

the owner filed a request or, if the owner did not, the person with the lien or other interest of the highest priority.

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

If the owner of record has not entered an appearance and

proven that the owner did not intend to abandon the property, and if no person with an interest in the property files a timely request or if the requesting party fails to demolish the building or put the property building in safe condition within the time specified by the court, the municipality may petition the court to issue a judicial deed for the property to the municipality or another governmental body designated by the municipality in the petition. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, including tax liens, and shall extinguish the rights and interests of any and all holders of a bona fide certificate of purchase of the property for delinquent taxes. Any such bona fide certificate of purchase holder shall be entitled to a sale in error as prescribed under Section 21-310 of the Property Tax Code.

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

If a residential or commercial building is 3 stories or less in height as defined by the municipality's building code, and the corporate official designated to be in charge of enforcing the municipality's building code determines that the building is open and vacant and an immediate and continuing hazard to the community in which the building is located, then

the official shall be authorized to post a notice not less than 2 feet by 2 feet in size on the front of the building. The notice shall be dated as of the date of the posting and shall state that unless the building is demolished, repaired, or enclosed, and unless any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials are removed so that an immediate and continuing hazard to the community no longer exists, then the building may be demolished, repaired, or enclosed, or any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials may be removed, by the municipality.

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

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

(2) Cause to be published, in a newspaper published or circulated in the municipality where the building is located, a notice setting forth (i) the permanent tax index number and the address of the building, (ii) a

statement that the property is open and vacant and constitutes an immediate and continuing hazard to the community, and (iii) a statement that the municipality intends to demolish, repair, or enclose the building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials if the owner or owners or lienholders of record fail to do so. This notice shall be published for 3 consecutive days.

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

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

If the building is not demolished, repaired, or enclosed, or the garbage, debris, or other hazardous, noxious, or unhealthy substances or materials are not removed, within 30 days of mailing the notice to the owners of record, the beneficial owners of any Illinois land trust having title to the property, and all lienholders of record in the property, or within 30 days of the last day of publication of the notice, whichever is later, the corporate authorities shall have the

power to demolish, repair, or enclose the building or to remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials.

The municipality may proceed to demolish, repair, or enclose a building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials under this subsection within a 120-day period following the date of the mailing of the notice if the appropriate official determines that the demolition, repair, enclosure, or removal of any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials is necessary to remedy the immediate and continuing hazard. If, however, before the municipality proceeds with any of the actions authorized by this subsection, any person with a legal or equitable interest in the property has sought a hearing under this subsection before a court and has served a copy of the complaint on the chief executive officer of the municipality, then the municipality shall not proceed with the demolition, repair, enclosure, or removal of garbage, debris, or other substances until the court determines that that action is necessary to remedy the hazard and issues an order authorizing the municipality to do so. If the court dismisses the action for want of prosecution, the municipality must send the objector a copy of the dismissal order and a letter stating that the demolition, repair, enclosure, or removal of garbage, debris, or other substances will proceed unless, within 30 days after

the copy of the order and the letter are mailed, the objector moves to vacate the dismissal and serves a copy of the motion on the chief executive officer of the municipality. Notwithstanding any other law to the contrary, if the objector does not file a motion and give the required notice, if the motion is denied by the court, or if the action is again dismissed for want of prosecution, then the dismissal is with prejudice and the demolition, repair, enclosure, or removal may proceed forthwith.

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

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

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

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

For purposes of this subsection (f):

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

(2) "abandoned" means;

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

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

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

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

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

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

The court shall grant an order authorizing testing under paragraph (i) above upon a showing of preliminary evidence indicating the presence or likely presence of a hazardous substance or a petroleum product or a release of or a substantial threat of a release of a hazardous substance or a petroleum product on, in, or under abandoned property. The preliminary evidence may include, but is not limited to, evidence of prior use, visual site inspection, or records of prior environmental investigations. The testing authorized by paragraph (i) above shall include any type of investigation which is necessary for an environmental professional to determine the environmental condition of the property,

including but not limited to performance of soil borings and groundwater monitoring. The court shall grant a remediation order under paragraph (ii) above where testing of the property indicates that it fails to meet the applicable remediation objectives. The hearing upon the application to the circuit court shall be expedited by the court and shall be given precedence over all other suits.

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

Act.

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

The lien may be enforced under subsection (c) or by foreclosure proceedings as in the case of mortgage foreclosures under Article XV of the Code of Civil Procedure or mechanics' lien foreclosures; provided that where the lien is enforced by foreclosure under subsection (c) or under either statute, the municipality may not proceed against the other assets of the owner or owners of the real estate for any costs that otherwise would be recoverable under this Section but that remain unsatisfied after foreclosure except where such additional recovery is authorized by separate environmental laws. An action to foreclose this lien may be commenced at any time after the date of filing of the notice of lien. The costs of foreclosure incurred by the municipality, including court costs, reasonable attorney's fees, advances to

preserve the property, and other costs related to the enforcement of this subsection, plus statutory interest, are a lien on the real estate.

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

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

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