

# Abandoned Properties

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## New Jersey Abandoned Properties Rehabilitation Act

6/22/2016

**FYI only. Not for use in court or for other legal proceedings. See your attorney for advice.**

# **Abandoned Properties Rehabilitation Act**

## **55:19-107- Utility authority to enter abandoned property and remove utility equipment**

Effective: June 22, 2006 Currentness

A utility may take all necessary steps to enter the premises of, discontinue utility service to, and remove utility equipment from, any property listed on an abandoned property list established pursuant to section 36 of P.L.1996, c. 62 (C.55:19-55) or any property that is determined by a public officer to meet the definition of abandoned property as set forth in sections 4 through 6 of P.L.2003, c. 210 (C.55:19-81 through C.55:19-83), provided that the utility is accompanied by a law enforcement officer from the municipality within which the property is located.

## **55:19-104- Proposal to establish abandoned property list**

Effective: January 8, 2004 Currentness

The voters of any municipality which has not adopted an ordinance directing the public officer to create an abandoned property list pursuant to section 36 of P.L. 1996, c. 62 (C.55:19-55) within one year after the effective date of P.L.2003, c.210 (C.55:19-78 et al.) may propose an ordinance directing the public officer to identify abandoned property for the purpose of establishing an abandoned property list in accordance with the provisions of section 36 of P.L.1996, c. 62 and submit it to the municipal council by a petition signed by a number of the legal voters of the municipality equal in number to five percent of the total votes cast in the last election at which municipal officials were elected, but no event fewer than 100 legal voters in a municipality with a population of 1,000 persons or more. This power of initiative shall be subject to the restrictions and procedures set forth in Article I, of P.L. 1999, c. 210 (C.40:69A-184 et seq).

## **55:19-105. Request for property to be placed on abandoned property list**

Effective: January 8, 2004 Currentness

- a. Any interested party may submit in writing a request to the public officer that a property be included on the abandoned property list prepared pursuant to section 36 of P.L.1996, c. 62 (C.55:19-55), specifying the street address and block and lot number of the property to be included, and the grounds for its inclusion. Within 30 days of receipt of any such request, the public officer shall provide a written response to the party, either indicating that the property will be added to the list of abandoned properties or, if not, the reasons for not adding the property to the list. For the purposes of this section, "interested party" shall include any resident of the municipality, any owner or operator of a business within the municipality or any organization representing the interests of residents or engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.
- b. Any interested party may participate in any redetermination hearing held by the public officer pursuant to subsection

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c. of section 36 of P.L.1996, c. 62 (C.55:19-55). Upon written request by any interested party, the public officer shall provide the party with at least 20 days' notice of any such hearing. The party shall provide the public officer with notice at least 10 days before the hearing of its intention to participate, and the nature of the testimony or other information that is proposes to submit at the hearing.

## **55:19-106. Legislative findings and declarations relative to electric and natural gas utilities on abandoned or vacant properties**

Effective: June 22, 2006 Currentness

The Legislature finds and declares that:

- a. Abandoned properties raise significant concerns for communities where they are located, including fostering criminal activity, posing possible public health problems and generally posing a risk to the quality of life for residents and businesses in the area.
  - b. Undercurrent law and tariffs approved under Board of Public Utilities regulations, customers of electric and natural gas utilities are required to provide reasonable access at all reasonable times to such utilities for the purpose of inspection of the customers' premises incident to the rendering of service, reading meters or the repairing of utility facilities used in connection with supplying service or for the removal of utility property.
  - c. Public utilities are bound by law to provide safe, adequate and proper service and must be able to periodically inspect the customers' premises incident to rendering service, read meters, repair utility facilities or remove utility property.
  - d. As a result of certain properties being abandoned or vacant, electric and natural gas utilities are denied the reasonable access to their facilities provided for by law and this impacts the ability to provide safe, adequate and proper service.
- c. The Legislature therefore determines that in the interest of the public safety of our communities, any electric and natural gas utility should be granted access to abandoned or vacant properties in order to inspect, repair and remove its facilities or property.

## **55:19-101. Properties eligible for tax sales; requirements of municipalities: notice**

Effective: .June 29.2005 Currentness

Municipalities may hold special tax sales with respect to those properties eligible for tax sale pursuant to R.S.54:5\*19 which arc also on an abandoned property list established by the municipality pursuant to

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section 36 of P.L.1996. c. 62 (C.S5:19-55). Municipalities electing to hold a special tax sale shall conduct that sale subject to the following provisions:

a. The municipality shall establish criteria for eligibility to bid on properties at the sale, which may include, but shall not be limited to: documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with municipal plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with municipal plans and regulations; commitments by the bidder to take action to foreclose on the tax lien by a date certain; and such other criteria as the municipality may determine is necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest:

b. The municipality may establish minimum bid requirements for a special tax sale that may be less than the full amount of the taxes, interest and penalties due, the amount of such minimum bid to be at the sole discretion of the municipality, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest :

c. The municipality may combine properties into bid packages, and require that bidders place a single bid on each

package, and reject any and all bids on individual properties that have been included in the packages:

d. The municipality may sell properties subject to provisions that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale pursuant to subsection a. of this section or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the municipality, and any amount paid by the purchaser to the municipality at the special tax sale shall be forfeit to the municipality:

e. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the municipality may designate the unsuccessful but qualified bidder whose bid was closest to the successful bid as an eligible purchaser;

f. In the event that the purchaser of that property or bid package fails to meet any of the conditions of sale established by the municipality pursuant to this section, and their interest in the property or properties reverts to the municipality, the municipality may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder

for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.

g. The municipality shall prepare notice of a special tax sale pursuant to R.S. 54:5-26. The notice shall include any special terms of sale established by the municipality pursuant to subsection b., c or d. of this section. Nothing shall prohibit the municipality from holding a special tax sale on the same day as a standard or accelerated tax sale.

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## **55:19-102. Eminent domain proceedings; establishment of fair market value**

Effective: .January 8,2004 Currentness

With respect to any eminent domain proceeding carried out under section 37 of P.L.1996. c. 62 (C.55:19-56). the fair market value of the property shall he established on the basis of an analysis which determines independently:

- a. the cost to rehabilitate and reuse the property for such purpose as is appropriate under existing planning and zoning regulations governing its reuse or to demolish the existing property and construct a new building on the site, including all costs ancillary to rehabilitation such as. but not limited to. marketing and legal costs;
- b. the realistic market value of the reused property after rehabilitation or new construction, taking into account the market conditions particular to the neighborhood or subarea of the municipality in which the property is located: and
- c. the extent to which the cost exceeds or docs not exceed the market value after rehabilitation, or demolition and new construction, and the extent to which any "as is" value of the property prior to rehabilitation can be added to the cost of rehabilitation or demolition and new construction without the resulting combined cost exceeding the market value as separately determined. If the appraisal finds that the cost of rehabilitation or demolition and new construction, as appropriate, exceeds the realistic market value after rehabilitation or demolition and new construction, there shall be a rebuttable presumption in all proceedings under this subsection that the fair market value of the abandoned property is zero, and that no compensation is due the owner.

## **55:19-103. Removal of property from abandoned property list**

Effective: .January' 8, 2004 Currentness

If a property, which an entity other than the municipality has purchased or taken assignment from the municipality of a tax Side certificate, is placed on the abandoned property list, the property shall he removed from the list if the owner of the certificate pays all municipal taxes and liens due on the property within 30 days after the property is placed on the list: provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the list, the property shall be restored to the abandoned property list.

55:19-99. Court's denial of rights and remedies to lienholders and mortgage holders

Effective: .January' 8. 2004 Currentness

Notwithstanding any provision to the contrary in P.L.2003, c. 210 (C.55:19-78 et al.). a court may in its discretion deny a lienholder or mortgage holder of any or all rights or remedies afforded lienholders and

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mortgage holders under P.L.2003, c. 210 (C.55:19-78 et al.). if the court finds that the owner of a property subject to any of the provisions of P.L.2003, c. 210 (C.55:19-78 et al.) owns or controls more than a 50% interest in. or effective control of. the lienholder or mortgage holder or that the familial or business relationship between the lienholder or mortgage holder and the owner precludes a separate interest 011 the part of the lienholder or mortgage holder.

## **55:i9-100. Recourse of municipalities against individuals or corporations**

Effective: June 29,2005 Currentness

With respect to any lien placed against any real property pursuant to the provisions of section 1 or section 3 of P. L. 1942. c.

l l2(C.40:48-2.3orC.40:48-2.5)or section l of P.L. 1989. c. 91 (C.40:48-2.3a) or any receiver's lien pursuant to P.L.2003. c. 295 (C.2A:42-114 et al.). the municipality shall have recourse with respect to the lien against any asset of the owner of the property if an individual, against any asset of any partner if a partnership, and against any asset of any owner of a 10% interest or greater if the owner is any other business organization or entity recognized pursuant to law.

## **55:19-96. Procedure of municipality seeking to gain title to property; authorization to sell; proceeds**

Effective: .January 8, 2004 Currentness

a. Where the municipality seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the court shall approve, and may place the proceeds of sale in escrow with the court.

The court may authorize the municipality to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement.

The proceeds of the purchase of the property shall be distributed as set forth in section 20 of P.L.2003. c. 210 (C.55:19-97).

b. The municipality may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.

c. Upon approval by the court the municipality shall sell the property on such terms and at such price as the court shall approve, and may place the proceeds of sale in escrow with the court. The court shall order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in section 20 of P.L.2003. c. 210 (C.55:19-97).

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## 55:19-97. Distribution of proceeds

Effective: January 8, 2004 Currentness

The proceeds paid pursuant to subsection c. of section 19 of P.L.2003. c. 210 (C.55:19-96) shall be distributed in the following order of priority:

- a. The costs and expenses of sale;
- b. Other governmental liens:
- c. Repayment of principal and interest on any borrowing or indebtedness incurred by the municipality and granted priority lien status pursuant to subsection a. of section 21 of P.L.2003. c. 210 (C.55:19-98);
- d. A reasonable development fee to the municipality consistent with the standards for development fees established for rehabilitation programs by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
- e. Other valid liens and security interests, in accordance with their priority; and
- f. The owner.

55:19-98. Public officer; authority to place lien on property; remedies

Effective: January 8, 2004 Currentness

a. The public officer, with the approval of the court, may place a lien on the property to cover any costs of the municipality in connection with a proceeding under P.L.2003. c. 210 (C.55:19-78 et al.) incurred prior to the grant by the court of an order of possession under P.L.2003, c. 210 (C.55:19-78 et al.), which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a municipal lien for the purposes of R.S.54:5-9 with the rights and status of a municipal lien pursuant thereto.

h. With the exception of the holding of special tax sales pursuant to section 24 of P.L.2003. c. 210 (C.55:19-101), the remedies available under P.L.2003, c. 210 (C.55:19-78 et al.) shall be available to any municipality with respect to any abandoned property, whether or not the municipality has established an abandoned property list as provided in section 36 of P.L.1996. c. 62 (C.55:19-55) and whether or not the property has been included on any such list.

## 55:i9-93- Contents of petition; filing and payment requirements

Effective: January 8, 2004 Currentness

Any petition for reinstatement of the owner's control and possession of the property filed pursuant to section 15 of P.L.2003. c. 210 (C.55:19-92) shall:

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- a. include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court:
- b. provide legally binding assurances that the owner will comply with all conditions of any grant or loan secured by the municipality or repay those grants or loans in full, at the discretion of the maker of the loan or grant: and
- c. be accompanied by payment equal to the sum of (1) all municipal liens outstanding 011 the property: (2) all costs incurred by the municipality in bringing action with respect to the property: (3) any costs incurred by the municipality not covered by grants or loans to be assumed or repaid pursuant to this section; and (4) any costs remaining to complete rehabilitation and reuse of the property, as determined by the public officer, which payment shall be placed in escrow with the Clerk of the Court pending disposition of the petition.

## **55:19\*94- Obligations of owner prior to grant of petition**

Effective: January' 8, 2004 Currentness

Prior to the granting of a petition on the part of the owner by the court pursuant to section 15 of P.L.2003, c. 210 (C.55:19-92). the owner may IK\* required to post a bond or other security in an amount determined by the court, after consultation with the public officer, as likely to ensure that the owner will continue to maintain the property in sound condition. That bond or other security shall be made available to the municipality to make any repair on the property in the event of a code violation which is not corrected in timely fashion by the owner. The bond or other security may be forfeit in full in the event that the owner fails to comply with any requirement imposed as a condition of the reinstatement petition filed pursuant to section 15 of P.L.2003. c. 210 (C.55:19-92).

The owner may seek approval of the court to be relieved of this requirement after five years, which shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period, and that the owner has remedied other violations in a timely and expeditious fashion.

## **5.5:i9-95- Failure of owner to petition for reinstatement of control and possession of property; granting of title to municipality; authority to sell**

Effective: January 8, 2004 Currentness

If the owner fails to petition for the reinstatement of control and possession of the property within 30 days after the entity in possession has filed a Notice of Completion or in any event within two years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the court in granting a reinstatement petition filed pursuant to section 15 of P.L.2003. c. 210 (C.55:19-92). upon

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petition from the entity in possession, the court may grant the municipality title or authorize the municipality to sell the property, subject to the provisions of section 19 of P.L.2003.

c. 210 (C.55:19-96).

## **55:i9-9i- Municipalities deemed possessor of property: borrowing of funds: reporting and filing requirements**

Effective: January' 8, 2004 Currentness

a. If a municipality has been granted possession of a property pursuant to section 12 of P.L.2003, c. 210 (C.55:19-89). (hat municipality shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals, and submitting applications for financing or other assistance to public or private entities.

For the purposes of any State program of grants or loans, including but not limited to programs of the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, possession of a property under this section shall be considered legal control of the property.

Notwithstanding the granting of possession to a municipality, nothing in P.L.2003. c. 210 (C.55:19-78 et al.) shall be deemed to relieve the owner of the property of any obligation the owner or any other person may have for the payment of taxes or other municipal liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.

The granting of possession shall not suspend any obligation the owner may have as of the date of the granting of possession for payment of any operating or maintenance expense associated with the property, whether or not billed at the time of the granting of possession.

b. The court may approve the borrowing of funds by a municipality to rehabilitate the property and may grant a lien or security interest with priority over all other liens or mortgages other than municipal liens. Prior to granting this lien priority, the court shall find that (1) the municipality sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms; (2) the municipality sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination: and (3) lien priority is necessary in order to induce another lender to provide financing on reasonable terms.

No lien authorized by the court shall take effect unless recorded in the office of the clerk of the county in which the property is located. For the purposes of this section, the cost of rehabilitation shall include reasonable non-construction costs such as architectural fees or construction permit fees customarily included in the financing of the rehabilitation of residential property.

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c. Where the municipality has been granted possession by the court in the name of the municipality, the municipality may seek the approval of the court to assign its rights to another entity, which approval shall be granted by the court when it finds that: (1) the entity to which the municipality's rights will be assigned is a qualified rehabilitation entity; and

(2) the assignment will further the purposes of this section.

d. Where a municipality has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide quarterly reports to the municipality 011 its activities and progress toward rehabilitation and reuse of the properly. The municipality or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the municipality or its designee have failed to take diligent action toward rehabilitation of the properly within one year from the grant of possession, then the court may request the municipality to designate another qualified rehabilitation entity to exercise its rights, or if the municipality fails to do so, may terminate the order of possession and return the property to its owner. The municipality shall file a Notice of Completion with the court, and shall also serve a copy on the owner and any mortgage holder or lien holder, at such time as the municipality has determined that no more than six months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the public officer attesting that rehabilitation can realistically be anticipated to be complete within that time period, and a statement setting forth such actions as it plans to undertake to ensure that reuse of the properly takes place consistent with the plan.

## **55:19-92. Petition for reinstatement of control and possession by owner**

Effective: .January 8,2004 Currentness

An owner may petition for reinstatement of the owner's control and possession of the property at any time after one year from the grant of possession, but no later than 30 days after the municipality has filed a Notice of Completion with the court or, in the event the Notice of Completion is filed within less than one year of the grant of possession, within 30 days after the municipality has filed notice.

The court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship 011 the municipality, or affect any of the terms or conditions under which the municipality has applied for or received financing for the rehabilitation of the property.

55:19-88. Owner unsuccessful in defending against complaint; mortgage or lien holders to be designated in possession of property

Effective: June 29, 2005 Currentness

a. If an owner is unsuccessful in defending against a complaint filed pursuant to section 7 of P.L.2003. c. 210 (C.55:19-84). the mortgage holder or lien holder may seek to be designated in possession of the

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property by submitting a plan and posting a bond meeting the same conditions as set forth in section 10 of P.L.2003. c. 210 (C.55:19-87). The plan shall be submitted within 60 days after the court has rejected the owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lien holder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the public officer to act as monitor of the party's compliance.

The mortgage holder or lien holder, as the case may be. shall provide quarterly reports to the court and the municipality on its activities and progress toward rehabilitation and reuse of the property.

If the mortgage holder or lien holder fails to carry out any material step in the approved plan, then the public officer shall notify the court, which may order the bond forfeit, grant the municipality possession of the property, and authorize the municipality to use the proceeds of the bond for rehabilitation of the property.

b. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lien holder granted possession of a property pursuant to subsection a. of this section, including court costs and reasonable attorney's fees, may be added to the unpaid balance due that mortgage holder or lien holder, with interest calculated at the same rate set forth in the note or security agreement; or. in the case of a tax lien holder, at the statutory interest rate for subsequent liens.

## **55:19-89. Municipality to be designated in possession of property; submission of plan to court**

Effective: January 8. 2004 Currentness

If no mortgage holder or lienholder meets the conditions of section 11 of P.L.2003, c. 210 (C.55:19-88). then the municipality shall submit a plan to the court which conforms with the provisions of subsection b. of section 10 of P.L.2003. c. 210 (C.55:19-87). The plan shall designate the entity which shall implement the plan, which may be the municipality or that entity designated in accordance with the provisions of section 13 of P.L.2003. c. 210 (C.55:19-90).

The court shall grant the municipality possession of the property if it finds that:

- a. the proposed rehabilitation and reuse of the property is appropriate and beneficial;
- b. the municipality is qualified to undertake the rehabilitation and reuse of the property; and
- c. the plan submitted by the municipality represents a realistic and timely plan for the rehabilitation and reuse of the property.

The municipality shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the plan submitted to the court. In making its findings pursuant to this

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section, the court may consult with qualified parties, including the Department of Community Affairs, and, upon request by a party in interest, may hold a hearing on the plan.

Where either a redevelopment plan pursuant to P.L.1992, c. 79 (C.40A:12A-1 et seq.) or a neighborhood revitalization plan pursuant to P.L.2001, c. 415 (C.52:27D-490 et seq.) has been adopted or approved by the Department of Community Affairs, as appropriate, encompassing the property which is the subject of a complaint, the court shall make a further finding that the proposed rehabilitation and reuse of the property are not inconsistent with any provision of either plan.

## **55:19-94. Municipalities; exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity**

Effective: January 8, 2004 Currentness

A municipality may exercise its rights under P.L.2003, c. 210 (C.55:19-78 et al.) directly, or may designate a qualified rehabilitation entity to act as its designee for the purpose of exercising the municipality's rights where that designation will further the rehabilitation and reuse of the property consistent with municipal plans and objectives. This designation shall be made by resolution of the municipal governing body, except that in municipalities organized under the "mayor- council plan" of the "Optional Municipal Charter Law." P.L.1950, c. 210 (C.40:69A-1 et seq.) it shall be made by the mayor. The governing body or mayor, as the case may be, may delegate this authority to the public officer.

Regardless of whether a municipality exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property pursuant to P.L.2003, c. 210 (C.55:19-78 et al.) a municipality shall maintain, safeguard, and maintain insurance on the property.

Notwithstanding the municipality's possession of the property, nothing in P.L.2003, c. 210 (C.55:19-78 et al.) shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

## **55:19-85. Filing of complaint; required information**

Effective: January 8, 2004 Currentness

A complaint filed pursuant to section 7 of P.L.2003, c. 210 (C.55; 19-84) shall include:

- a. documentation that the property is on the municipal abandoned property list or a certification by the public officer that the property is abandoned; and
- b. a statement by an individual holding appropriate professional qualifications that there are sound reasons that the building should be rehabilitated rather than demolished based upon the physical, aesthetic or historical character of the building or the relationship of the building to other buildings and lands within its immediate vicinity.

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## **55:19-86. Filing of complaint: notice requirements; entry to secure, stabilize, repair or inspect the property**

Effective: June 29, 2005 Currentness

a. Within 10 days of filing a complaint pursuant to P.L.2003, c. 210 (C.55:19-78 cl al.), the plaintiff shall file a notice of lis pendens with the county recording officer of the county within which the building is located.

b. At least 30 days before filing the complaint, the municipality shall serve a notice of intention to take possession of an abandoned building. The notice shall inform the owner and interested parties that the property has not been legally occupied for six months and of those criteria that led to a determination of abandonment pursuant to section 4 of P.L.2003,c. 210(0.55:19-81).

The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate municipal officials, the municipality will seek to gain possession of the building to rehabilitate the property and the associated cost shall be a lien against the property, which may be satisfied by the sale of the property, unless the owner applies to the court for reinstatement of control of the property as provided in section 15 of P.L.2003, c. 210 (C.55:19-92).

After the complaint is filed, the complaint shall be served on the parties in interest in accordance with the New Jersey Rules of Court.

c. After serving the notice of intent pursuant to subsection b. of this section, the municipality or its designee may enter upon that property after written notice to the owner by certified mail, return receipt requested, in order to secure, stabilize or repair the property, or in order to inspect the property for purposes of preparing the plan to be submitted to the court pursuant to section 12 of P.L.2003, c. 210 (C.55:19-89).

## **55:19\*87- Property owner, defense against complaint; requirements**

Effective: June 29, 2005 Currentness

a. Any owner may defend against a complaint filed pursuant to section 7 of P.L.2003. c. 210 (C.55:19-84) by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125 percent of the amount determined by the public officer or the court to be the projected cost of rehabilitation.

Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.

b. A plan submitted by an owner pursuant to this section shall include, but not be limited to:

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## **(1) A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse,**

including operating budgets or resale prices, or both, as appropriate:

(2) A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;

(3) A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property: and

(4) Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning,

design, financial packaging, construction, and marketing or rental of the property.

c. (1) The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property which is the subject of the complaint.

(2) If the court approves the owner's plan, then it may appoint the public officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, then the municipality may apply to the court to have the owner's bond forfeited, possession of the building transferred to the municipality to complete the rehabilitation plan and authorization to use the bond proceeds for rehabilitation of the property.

## **55:19-83. Property deemed not abandoned; criteria; certification of abandonment provided upon request**

Effective: June 29,2005 Currentness

a. If an entity other than the municipality has purchased or taken assignment from the municipality of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be placed on the abandoned property list pursuant to section 36 of P.L.1996, c. 62 (C.55:19-55) if (1) the owner of the certificate has continued to pay all municipal taxes and liens on the property in the tax year when due; and (2) the owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either subsection a. or subsection b. of R.S.54:5-86. as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

b. A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two of the additional criteria set forth in section 4 of P.L.2003, c. 210 (C.55:19-81).

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c. A determination that a property is abandoned property under the provisions of P.L.2003. c. 210 (C.55:19-78 et al.) shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.

d. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to subsection b. of R.S.54:5-86. the public officer or the tax collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of abandoned according to the criteria set forth in sections 4 and 5 of P.L.2003. c. 210 (C.55:19-81 and C.55:19-82).

55:19-84. Transfer of possession and control of abandoned property

Effective: January' 8, 2004 Currentness

A summary action or otherwise to transfer possession and control of abandoned property in need of rehabilitation to a municipality may be brought by a municipality in the Superior Court in the county in which the property is situated. If the court shall find that the property is abandoned pursuant to section 4 of P.L.2003. c. 210 (C.55:19-81) and the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the court may authorize the municipality to take possession and control of the property and develop a rehabilitation plan.

The municipality granted possession and control may commence and maintain those further proceedings for the conservation, protection or disposal of the property or any part thereof that are required to rehabilitate the property, necessary to recoup the cost and expenses of rehabilitation and for the sale of the property: provided, however, that the court shall not direct the sale of the property if the owner applies to the court for reinstatement of control of the property as provided in section 15 of P.L.2003. c. 210 (C.55:19-92).

Failure by the owner, mortgage holder or lien holder to submit plans for rehabilitation to the municipality, obtain appropriate construction permits for rehabilitation or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, State or federal agencies providing such funding within that six month period shall be deemed prima facie evidence that the owner has failed to take any action to further the rehabilitation of the property.

## 55:19-80. Definitions

Effective: June 22, 2006 Currentness

As used in sections 1 through 25 of P.L.2003. c. 210 (C.55:19-78 through C.55:19-102) and section 3 of P.L.2006, c.24 (C.55:19-107):

"Department" means the New Jersey Department of Community Affairs.

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"Lienholder" or "mortgage holder" means any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

"Municipality" means any city, borough, town, township or village situated within the boundaries of this State and shall include a qualified rehabilitation entity that may be designated by the municipality pursuant to section 13 of P.L.2003,

c. 210 (C.55:19-90) to act as its agent to exercise any of the municipality's rights pursuant thereto.

"Owner" means the holder or holders of title to an abandoned property.

"Property" means any building or structure and the land appurtenant thereto.

"Public officer" means the person designated by the municipality pursuant to section 3 of P.L. 1942. c. 112 (C.40:48-2.5) or any officer of the municipality qualified to carry out the responsibilities set forth in P.L.2003, c. 210 (C.55:19-78 et al.) and designated by resolution of the governing body of the municipality, except that in municipalities organized under the "mayor-council! plan" of the Optional Municipal Charter Law. P.L. 1950. c. 210 (C.40:69A-1 et seq.). the public officer shall be designated by the mayor.

"Qualified rehabilitation entity" means an entity organized or authorized to do business under the New Jersey statutes which shall have as one of its purposes the construction or rehabilitation of residential or non-residential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in P.L.2003. c. 210 (C.55:19-78 et al.) to carry out the rehabilitation of vacant buildings in urban areas.

"Utility" means any electric or natural gas public utility that is regulated under the jurisdiction of the Board of Public Utilities.

## **55:19-81. Abandoned property; criteria**

Effective: June 29,2005 Currentness

Except as provided in section 6 of P.L.2003. c. 210 (C.55:19-83), any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:

- a. The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period:
- b. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section;

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c. At least one installment of property tax remains unpaid and delinquent on that property in accordance with chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the public officer pursuant to this section: or

d. The property has been determined to be a nuisance by the public officer in accordance with section 5 of P.L.2003,

c. 210(0.55:19-82).

A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L.2003, c. 210 (0.55:19-78 et al.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either subsection a. or subsection d. of this section.

## **55:19-82. Nuisance property; criteria**

Effective: January' 8, 2004 Currentness

A property may be determined to be a nuisance if:

a. The property has been found to be unfit for human habitation, occupancy or use pursuant to section I of P.L. 1942.

c. 112 (C.40:48-2.3):

b. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties:

c. The property is subject to unauthorized entry leading to potential health and safety hazards: the owner has failed to take reasonable and necessary measures to secure the property: or the municipality has secured the property in order to prevent such hazards after the owner has failed to do so:

d. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or

e. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

A public officer who determines a property to be a nuisance pursuant to subsections b. through e. of this section shall follow the notification procedures set forth in P.L. 1942, c. 112 (C'.40:48-2.3 et seq.).

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## 55:19-79- Legislative findings and declarations

Effective: January' 8,2004 Currentness

The Legislature finds and declares that:

- a. Abandoned properties, particularly those located within urban areas or in close proximity to occupied residences and businesses, create a wide range of problems for the communities in which they are located, fostering criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas.
- b. Abandoned properties diminish the property values of neighboring properties and have a negative effect on the quality of life of adjacent property owners, increasing the risk of property damage through arson and vandalism and discouraging neighborhood stability and revitalization.
- c. For these reasons, abandoned properties are presumptively considered to be nuisances, in view of their negative effects on nearby properties and the residents or users of those properties.
- d. The continued presence of abandoned properties in New Jersey's communities acts as a significant barrier to urban revitalization and to the regeneration of the State's urban centers.
- c. Abandonment is a local problem that must be addressed locally and the most important role of State government is to provide local governments, local community organizations, citizens, and residents with the tools to address the problem.
- f. The responsibility of a property owner to maintain a property in sound condition and prevent it from becoming a nuisance to others extends to properties which are not in use and 'demolition by neglect', leading to the deterioration and loss of the property, or failure by an owner to comply with legitimate orders to demolish, stabilize or otherwise repair his or her property creates a presumption that the owner has abandoned the property.
- g. Many abandoned buildings still have potential value for residential and other uses and such buildings should be preserved rather than demolished, wherever feasible, particularly buildings that have historic or architectural value, or contribute to maintaining the character of neighborhoods or streetscapes. or both, as the case ma\ be.

## 55:19\*78. Short title

Effective: January- 8, 2004 Currentness

This act shall he known and may he cited as the " Abandoned Properties Rehabilitation Act "

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## 55:19-107. Utility authority to enter abandoned property and remove utility equipment

Effective: June 22, 2006 Currentness

A utility may take all necessary steps to enter the premises of, discontinue utility service to, and remove utility equipment from, any property listed on an abandoned property list established pursuant to section 36 of P.L. 1996, c. 62 (C.55:19-55) or any property that is determined by a public officer to meet the definition of abandoned property as set forth in sections 4 through 6 of P.L.2003, c. 210 (C.55:19-81 through C.55:19-83), provided that the utility is accompanied by a law enforcement officer from the municipality within which the property is located.

Proposal to establish abandoned property list

Effective: January 8, 2004 Currentness

The voters of any municipality which has not adopted an ordinance directing the public officer to create an abandoned property list pursuant to section 36 of P.L.1996, c. 62 (C.55:19-55) within one year after the effective date of P.L.2003,

c. 210 (C.55:19-78 et al.) may propose an ordinance directing the public officer to identify abandoned property for the purpose of establishing an abandoned property list in accordance with the provisions of section 36 of P.L. 1996, c. 62 and submit it to the municipal council by a petition signed by a number of the legal voters of the municipality equal in number to five percent of the total votes cast in the last election at which municipal officials were elected, but not fewer than 101 legal voters in a municipality with a population of 1,000 persons or more. This power of initiative shall be subject to the restrictions and procedures set forth in Article I of P.L. 1950, c. 210 (C.40:69A-1-S4 et seq.).

55:19-105. Request for property to be placed on abandoned property list Effective: January 8, 2004 Currentness

a. Any interested party may submit in writing a request to the public officer that a property be included on the abandoned property list prepared pursuant to section 36 of P.L.1996, c. 62 (C.55:19-55), specifying the street address and block and lot number of the property to be included, and the grounds for its inclusion. Within 30 days of receipt of any such request, the public officer shall provide a written response to the party, either indicating that the property will be added to the list of abandoned properties or, if not, listing reasons for not adding the property to the list, for the purposes of this section, "interested party" shall include any resident of the municipality, any owner or operator of a business within the municipality or any organization representing the interests of residents or engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

b. Any interested party may participate in any redetermination hearing held by the public officer pursuant to subsection

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c. of section 36 of P.L.1996. c. 62 (C.55:19-55). Upon written request by any interested party, the public officer shall provide the party with at least 20 days' notice of any such hearing. The party shall provide the public officer with notice at least 10 days before the hearing of its intention to participate, and the nature of the testimony or other information that is proposes to submit at the hearing.

## **55:19-106. Legislative findings and declarations relative to electric and natural gas utilities on abandoned or vacant properties**

Effective: June 22, 2006 Currentness

The Legislature finds and declares that:

- a. Abandoned properties raise significant concerns for communities where they are located, including fostering criminal activity, posing possible public health problems and generally posing a risk to the quality of life for residents and businesses in the area.
- b. Undercurrent law and tariffs approved under Board of Public Utilities regulations, customers of electric and natural gas utilities are required to provide reasonable access at all reasonable times to such utilities for the purpose of inspection of the customers' premises incident to the rendering of service, reading meters or the repairing of utility facilities used in connection with supplying service or for the removal of utility property.
- c. Public utilities are bound by law to provide safe, adequate and proper service and must be able to periodically inspect the customers' premises incident to rendering service, read meters, repair utility facilities or remove utility property.
- d. As a result of certain properties being abandoned or vacant, electric and natural gas utilities are denied the reasonable access to their facilities provided for by law and this impacts the ability to provide safe, adequate and proper service.
- e. The Legislature therefore determines that in the interest of the public safety of our communities, any electric and natural gas utility should be granted access to abandoned or vacant properties in order to inspect, repair and remove its facilities or property.

## **55:i9'\*Oi. Properties eligible for tax sales: requirements of municipalities: notice**

Effective: June 29. 2005 Currentness

Municipalities may hold special tax sale\* with respect 10 those properties eligible for tax sale pursuant to R.S.54 5-19 which arc also on an abandoned property list established by the municipality pursuant to section 36 of P L 1996. c. 62 (( 55:19-551. Municipalities selecting to hold a special tax vale shall conduct that sale subject to the following provisions:

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a. The municipality shall establish criteria for eligibility to bid on properties at the sale, which may include, but shall not be limited to: documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with municipal plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with municipal plans and regulations; commitments by the bidder to take action to foreclose on the tax lien by a date certain; and such other criteria as the municipality may determine as necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest:

h. The municipality may establish minimum bid requirement\* for a special tax sale that may be less than the full amount of the taxes, interest and penalties due. The amount of such minimum bid to beat the sole discretion of the municipality, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest:

u. The municipality may combine properties into bid packages, and require that bidders place a single bid on each package, and reject any and all bids on individual properties that have been included in bid packages:

d. The municipality may sell properties subject to provisions that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale pursuant to subsection a. of this section or any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the municipality, and any amount paid by the purchaser to the municipality at the Special tax sale shall be forfeit to the municipality:

c. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the municipality may designate the unsuccessful but qualified bidder whose bid was closest to the successful bid as an eligible purchaser;

f. In the event that the purchaser of that property or bid package fails to meet any of the conditions of sale established by the municipality pursuant to this section and their interest in the property or properties reverts to the municipality, the municipality may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder

for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.

g. The municipality shall provide notice of a special tax sale pursuant to R.S. 17-5-26. The notice shall include any special terms of sale established by the municipality pursuant to subsection b., e, or d. of this section. Nothing shall prohibit the municipality from holding a special tax sale on the same day as a standard or accelerated tax sale.

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## 55:19-102. Eminent domain proceedings; establishment of fair market value

Effective: January 8, 2004 Currentness

With respect to any eminent domain proceeding carried out under section 37 of P.L.1996. c. 62 (C.55:19-56). the fair market value of the property shall be established on the basis of an analysis which determines independently:

- a. the cost to rehabilitate and reuse the property for such purpose as is appropriate under existing planning and zoning regulations governing its reuse or to demolish the existing property and construct a new building on the site, including all costs ancillary to rehabilitation such as. but not limited to. marketing and legal costs:
- b. the realistic market value of the reused property after rehabilitation or new construction, taking into account the market conditions particular to the neighborhood or subarea of the municipality in which the property is located; and
- e. the extent to which the cost exceeds or does not exceed the market value after rehabilitation, or demolition and new construction, and the extent to which any "as is" value of the property prior to rehabilitation can be added to the cost of rehabilitation or demolition and new construction without the resulting combined cost exceeding the market value as separately determined. If the appraisal finds that the cost of rehabilitation or demolition and new construction, as appropriate, exceeds the realistic market value after rehabilitation or demolition and new construction, there shall be a rebuttable presumption in all proceedings under this subsection that the fair market value of the abandoned property is zero, and that no compensation is due the owner.

## 55:19-103. Removal of property from abandoned property list

Effective: January 8, 2004 Currentness

If a property, which an entity other than the municipality has purchased or taken assignment from the municipality of a tax sale certificate, is placed on the abandoned property list, the property shall be removed from the list if the owner of the certificate pays all municipal taxes and liens due on the property within 30 days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the list, the property shall be restored to the abandoned property list.

55:19-99. Court's denial of rights and remedies to lienholders and mortgage holders

Effective: January 8, 2004 Currentness

Notwithstanding any provision to the contrary in P.L.2003.C. 210 (C.55:19-78 cl al.). a court may in its discretion deny a lienholder or mortgage holder of any or all rights or remedies afforded lienholders and mortgage holders under P.L.2003.

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c. 210 (C.55:19-78 et al.). if the court finds that the owner of a property subject to any of the provisions of P.L.2003. c. 210 (C.55:19-78 et al.) owns or controls more than a 50% interest in. or effective control of, the lienholder or mortgage holder or that the familial or business relationship between the lienholder or mortgage holder and the owner precludes a separate interest 011 the part of the lienholder or mortgage holder.

## 55'i9“ioo. Recourse of municipalities against individuals or corporations

Effective: June 29, 2005 Currentness

With respect to any lien placed against any real property pursuant to the provisions of section I or section 3 of P.L. 1942. c. 112 (C.40:48-2.3 or C.40:48-2.5) or section I of P.L. 1989. c. 91 (C.40:48-2.3a) or any receiver's lien pursuant to P.L.2003.

c. 295 (C.2A:42-114 et al.). the municipality shall have recourse with respect to the lien against any asset of the owner of the property if an individual, against any asset of any partner if a partnership, and against any asset of any owner of a 10% interest or greater if the owner is any other business organization or entity recognized pursuant to law.

55:19-96. Procedure of municipality seeking to gain title to property; authorization to sell; proceeds

Effective: January 8, 2004 Currentness

a. Where the municipality seeks to gain title to the property, it shall purchase the property for fair market value 011 such terms as the court shall approve, and may place the proceeds of sale in escrow with the court.

The court may authorize the municipality to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement.

The proceeds of the purchase of the property shall be distributed as set forth in section 20 of P.L.2003, c. 210 (C.55:19-97).

b. The municipality may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.

c. Upon approval by the court the municipality shall sell the property on such terms and at such price as the court shall approve, and may place the proceeds of sale in escrow with the court. The court shall order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in section 20 of P.L.2003. c. 210 (C.55:19-97).

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## **55:19-97. Distribution of proceeds**

Effective: January' 8, 2004 Currentness

The proceeds paid pursuant to subsection c. of section 19 of P.L.2003. c. 210 (C.55:19-96) shall be distributed in the following order of priority:

- a. The costs and expenses of sale:
- b. Other governmental liens;
- c. Repayment of principal and interest on any borrowing or indebtedness incurred by the municipality and granted priority lien status pursuant to subsection a. of section 21 of P.L.2003. c. 210 (C.55:19-98):
- d. A reasonable development fee to the municipality consistent with the standards for development fees established for rehabilitation programs by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
- e. Other valid liens and security interests, in accordance with their priority: and
- f. The owner.

## **55:19-98. Public officer; authority to place lien on property; remedies**

Effective: January 8, 2004 Currentness

- a. The public officer, with the approval of the court, may place a lien on the property to cover any costs of the municipality in connection with a proceeding under P.L.2003. c. 210 (C.55:19-78 et al.) incurred prior to the grant by the court of an order of possession under P.L.2003, c. 210 (C.55:19-78 et al.). which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a municipal lien for the purposes of R.S.54:5-9 with the rights and status of a municipal lien pursuant thereto.
- b. With the exception of the holding of special tax sales pursuant to section 24 of P.L.2003. c. 210 (C.55:19-101). the remedies available under P.L.2003. c. 210 (C.55; 19-78 et al.) shall be available to any municipality with respect to any abandoned property, whether or not the municipality has established an abandoned property list as provided in section 36 of P.L.1996. c. 62 (C.55:19-55) and whether or not the property has been included on any such list.

## **55:i9-93- Contents of petition; Filing and payment requirements**

Effective: January' 8, 2004 Currentness

Any petition for reinstatement of the owner's control and possession of the property filed pursuant to section 15 of P.L.2003. c. 210 (C.55:19-92) shall:

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- a. include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court:
- b. provide legally binding assurances that the owner will comply with all conditions of any grant or loan secured by the municipality or repay those grants or loans in full, at the discretion of the maker of the loan or grant; and
- c. be accompanied by payment equal to the sum of (1) all municipal liens outstanding on the property: (2) all costs incurred by the municipality in bringing action with respect to the property: (3) any costs incurred by the municipality not covered by grants or loans to be assumed or repaid pursuant to this section: and (4) any costs remaining to complete rehabilitation and reuse of the property, as determined by the public officer, which payment shall be placed in escrow with the Clerk of the Court pending disposition of the petition.

## **55:19-94\* Obligations of owner prior to grant of petition**

Effective: January 8, 2004 Currentness

Prior to the granting of a petition on the part of the owner by the court pursuant to section 15 of P.L.2003. c. 210 (C.55:19\*92). the owner may be required to post a bond or other security in an amount determined by the court, after consultation with the public officer, as likely to ensure that the owner will continue to maintain the property in sound condition. That bond or other security shall be made available to the municipality to make any repair on the property in the event of a code violation which is not corrected in timely fashion by the owner. The bond or other security may be forfeit in full in the event that the owner fails to comply with any requirement imposed as a condition of the reinstatement petition filed pursuant to section 15 of P.L.2003. c. 210 (C.55:19-92).

The owner may seek approval of the court to be relieved of this requirement after five years, which shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period, and that the owner has remedied other violations in a timely and expeditious fashion.

## **55:i9-95- Failure of owner to petition for reinstatement of control and possession of property; granting of title to municipality; authority to sell**

Effective: January 8, 2004 Currentness

If the owner fails to petition for the reinstatement of control and possession of the property within 30 days after the entity in possession has filed a Notice of Completion or in any event within two years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the court in granting a reinstatement petition filed pursuant to section 15 of P.L.2003. c. 210 (C.55:19-92). upon

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petition from the entity in possession, the court may grant the municipality title or authorize the municipality to sell the property, subject to the provisions of section 19 of P.L.2003.

c. 210 (C.55:19-96).

## **55:i9-9i- Municipalities deemed possessor of property; borrowing of funds; reporting and filing requirements**

Effective: January 8, 2004 Currentness

a. If a municipality has been granted possession of a property pursuant to section 12 of P.L.2003. e. 210 (C.55:19-89). that municipality shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals, and submitting applications for financing or other assistance to public or private entities.

For the purposes of any State program of grants or loans, including but not limited to programs of the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, possession of a property under this section shall be considered legal control of the property.

Notwithstanding the granting of possession to a municipality, nothing in P.L.2003. c. 210 (C.55:19-78 et al.) shall be deemed to relieve the owner of the property of any obligation the owner or any other person may have for the payment of taxes or other municipal liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.

The granting of possession shall not suspend any obligation the owner may have as of the date of the granting of possession for payment of any operating or maintenance expense associated with the property, whether or not billed at the time of the granting of possession.

b. The court may approve the borrowing of funds by a municipality to rehabilitate the property and may grant a lien or security interest with priority over all other liens or mortgages other than municipal liens. Prior to granting this lien priority, the court shall find that (1) the municipality sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms; (2) the municipality sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and (3) lien priority is necessary in order to induce another lender to provide financing on reasonable terms.

No lien authorized by the court shall take effect unless recorded in the office of the clerk of the county in which the property is located. For the purposes of this section, the cost of rehabilitation shall include reasonable non-construction costs such as architectural fees or construction permit fees customarily included in the financing of the rehabilitation of residential property.

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c. Where the municipality has been granted possession by the court in the name of the municipality, the municipality may seek the approval of the court to assign its rights to another entity, which approval shall be granted by the court when it finds that: (1) the entity to which the municipality's rights will be assigned is a qualified rehabilitation entity: and

(2) the assignment will further the purposes of this section.

d. Where a municipality has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide quarterly reports to the municipality 011 its activities and progress toward rehabilitation and reuse of the properly. The municipality or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the municipality or its designee have failed to take diligent action toward rehabilitation of the property within one year from the grant of possession, then the court may request the municipality to designate another qualified rehabilitation entity to exercise its rights, or if the municipality fails to do so. may terminate the order of possession and return the property to its owner, e. The municipality shall file a Notice of Completion with the court, and shall also serve a copy on the owner and any mortgage holder or lien holder, at such time as the municipality has determined that no more than six months remain to the anticipated dale on which rehabilitation will be complete. This notice shall include an affidavit of the public officer attesting that rehabilitation can realistically be anticipated to be complete within that time period, and a statement setting forth such actions as it plans to undertake to ensure that reuse of the properly takes place consistent with the plan.

## 55:19-92. Petition for reinstatement of control and possession by owner

Effective: January' 8,2004 Currentness

An owner may petition for reinstatement of the owner's control and possession of the property at any time after one year from the grant of possession, hut no later than 30 days after the municipality has filed a Notice of Completion with the court or. in the event the Notice of Completion is filed within less than one year of the grant of possession, within 30 days after the municipality has filed notice.

The court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship on the municipality, or affect any of the terms or conditions under which the municipality has applied for or received financing for the rehabilitation of the property.

55:19-88. Owner unsuccessful in defending against complaint: mortgage or lien holders to be designated in possession of property

Effective: June 29,2005 Currentness

a. I fan owner is unsuccessful in defending against a complaint filed pursuant to section 7 of P.L.2003. c. 210 (C.55:19-84), the mortgage holder or lien holder may seek to be designated in possession of the

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property by submitting a plan and posting a bond meeting the same conditions as set forth in section 10 of P.L.2003. c. 210 (C.55:19-87). The plan shall be submitted within 60 days after the court has rejected the owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lien holder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the public officer to act as monitor of the party's compliance.

The mortgage holder or lien holder, as the case may be, shall provide quarterly reports to the court and the municipality on its activities and progress toward rehabilitation and reuse of the property.

If the mortgage holder or lien holder fails to carry out any material step in the approved plan, then the public officer shall notify the court, which may order the bond forfeit, grant the municipality possession of the property, and authorize the municipality to use the proceeds of the bond for rehabilitation of the property.

b. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lien holder granted possession of a property pursuant to subsection a. of this section, including court costs and reasonable attorney's fees, may be added to the unpaid balance due that mortgage holder or lien holder, with interest calculated at the same rate set forth in the note or security agreement: or. in the case of a lax lien holder, at the statutory interest rate for subsequent liens.

## **55:19-89. Municipality to be designated in possession of property; submission of plan to court**

Effective: January 8, 2004 Currentness

If no mortgage holder or lienholder meets the conditions of section 11 of P.L.2003. c. 210 (C.55:19-88). then the municipality shall submit a plan to the court which conforms with the provisions of subsection b. of section 10 of P.L.2003. c. 210 (C.55:19-87). The plan shall designate the entity which shall implement the plan, which may be the municipality or that entity designated in accordance with the provisions of section 13 of P.L.2003. c. 210 (C.55:19-90).

The court shall grant the municipality possession of the property if it finds that:

- a. the proposed rehabilitation and reuse of the property is appropriate and beneficial:
- b. the municipality is qualified to undertake the rehabilitation and reuse of the property; and
- c. the plan submitted by the municipality represents a realistic and timely plan for the rehabilitation and reuse of the property.

The municipality shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the plan submitted to the court. In making its findings pursuant to this

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section, the court may consult with qualified parties, including the Department of Community Affairs, and, upon request by a party in interest, may hold a hearing on the plan.

Where either a redevelopment plan pursuant to P.L.1992, c. 79 (C.40A:12A-1 et seq.) or a neighborhood revitalization plan pursuant to P.L.2001.c.415(C.52:27D-490et seq.) has been adopted or approved by the Department of Community Affairs, as appropriate, encompassing the property which is the subject of a complaint, the court shall make a further finding that the proposed rehabilitation and reuse of the property are not inconsistent with any provision of either plan.

## **55:19-90- Municipalities; exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity**

Effective: January 8,2004 Currentness

A municipality may exercise its rights under P.L.2003. c. 210 (C.55:19-78 et al.) directly, or may designate a qualified rehabilitation entity to act as its designee for the purpose of exercising the municipality's rights where that designation will further the rehabilitation and reuse of the property consistent with municipal plans and objectives. This designation shall be made by resolution of the municipal governing body, except that in municipalities organized under the "mayor- council plan" of the "Optional Municipal Charter Law." P.L.1950. c. 210 (C.40:69A-1 et seq.). it shall be made by the mayor. The governing body or mayor, as the case may be, may delegate this authority to the public officer.

Regardless of whether a municipality exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property pursuant to P.L.2003. c. 210 (C.55:19-78 et al.). a municipality shall maintain, safeguard, and maintain insurance on the property.

Notwithstanding the municipality's possession of the property, nothing in P.L.2003. c. 210 (C.55:19-78 et al.) shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

## **55:19-85- Filing of complaint; required information**

Effective: January 8, 2004 Currentness

A complaint filed pursuant to section 7 of P.L.2003, c. 210 (C.55:19-84) shall include:

- a. documentation that the property is on the municipal abandoned property list or a certification by the public officer that the property is abandoned; and
- b. a statement by an individual holding appropriate professional qualifications that there are sound reasons that the building should be rehabilitated rather than demolished based upon the physical, aesthetic or historical character of the building or the relationship of the building to other buildings and lands within its immediate vicinity.

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## **55:19-86. Filing of complaint; notice requirements; entry to secure, stabilize, repair or inspect the property**

Effective: June 29, 2005 Currentness

a. Within 10 days of filing a complaint pursuant to P.L.2003. c. 210 (C.55:19-78 et al.), the plaintiff shall file a notice of lis pendens with the county recording officer of the county within which the building is located.

b. At least 30 days before filing the complaint, the municipality shall serve a notice of intention to take possession of an abandoned building. The notice shall inform the owner and interested parties that the property has not been legally occupied for six months and of those criteria that led to a determination of abandonment pursuant to section 4 of P.L.2003. c.210(C.55:19-81).

The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate municipal officials, the municipality will seek to gain possession of the building to rehabilitate the property and the associated cost shall be a lien against the property, which may be satisfied by the sale of the property, unless the owner applies to the court for reinstatement of control of the property as provided in section 15 of P.L.2003. c. 210 (C.55:19-92).

After the complaint is filed, the complaint shall be served on the parties in interest in accordance with the New Jersey Rules of Court.

c. After serving the notice of intent pursuant to subsection b. of this section, the municipality or its designee may enter upon that property after written notice to the owner by certified mail, return receipt requested, in order to secure, stabilize or repair the property, or in order to inspect the property for purposes of preparing the plan to be submitted to the court pursuant to section 12 of P.L.2003. c. 210 (C.55:19-89).

## **55:19-87\* Property owner, defense against complaint; requirements**

Effective: June 29, 2005 Currentness

a. Any owner may defend against a complaint filed pursuant to section 7 of P.L.2003. c. 210 (C.55:19-84) by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125 percent of the amount determined by the public officer or the court to be the projected cost of rehabilitation.

Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.

b. A plan submitted by an owner pursuant to this section shall include, but not be limited to:

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(1) A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, including operating budgets or resale prices, or both, as appropriate:

(2) A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;

(3) A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and

(4) Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.

c. (1) The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property which is the subject of the complaint.

(2) If the court approves the owner's plan, then it may appoint the public officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, then the municipality may apply to the court to have the owner's bond forfeited, possession of the building transferred to the municipality to complete the rehabilitation plan and authorization to use the bond proceeds for rehabilitation of the property.

## **55:19-83- Property deemed not abandoned; criteria; certification of abandonment provided upon request**

Effective: June 29, 2005 Currentness

a. If an entity other than the municipality has purchased or taken assignment from the municipality of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be placed on the abandoned property list pursuant to section 36 of P.L.1996. c. 62 (C.55:19-55) if (!) the owner of the certificate has continued to pay all municipal taxes and liens on the property in the tax year when due: and (2) the owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either subsection a. or subsection b. of R.S.54:5-86. as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

b. A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two of the additional criteria set forth in section 4 of P.L.2003, e. 210 (C.55:19-81).

c. A determination that a property is abandoned properly under the provisions of P.L.2003. c. 210 (C.55:19-78 et al.) shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.

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d. Upon the request of a purchaser or assignee of a lax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to subsection b. of R.S.54:5-86. the public officer or the tax collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition or abandoned according to the criteria set forth in sections 4 and 5 of P.L.2003. c. 210 (C.55:19-81 and C.55:19-82).

55:19-84. Transfer of possession and control of abandoned property

Effective: January 8,2004 Currentness

A summary action or otherwise to transfer possession and control of abandoned properly in need of rehabilitation to a municipality may be brought by a municipality in the Superior Court in the county in which the property is situated. If the court shall find that the property is abandoned pursuant to section 4 of P.L.2003. c. 210 (C.55:19-81) and the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the court may authorize the municipality to lake possession and control of the property and develop a rehabilitation plan.

The municipality granted possession and control may commence and maintain those further proceedings for the conservation, protection or disposal of the properly or any part thereof that are required to rehabilitate the property, necessary to recoup the cost and expenses of rehabilitation and for the sale of the property; provided, however, that the court shall not direct the sale of the property if the owner applies to the court for reinstatement of control of the property as provided in section 15 of P.L.2003. c. 210 (C.55:19-92).

Failure by the owner, mortgage holder or lien holder to submit plans for rehabilitation 10 the municipality, obtain appropriate construction permits for rehabilitation or. in the alternative, submit formal applications for funding the cost of rehabilitation to local, State or federal agencies providing such funding within that six month period shall be deemed prima facie evidence that the owner has failed to take any action to further the rehabilitation of the property.

## 55:19-80. Definitions

Effective: June 22, 2006 Currentness

As used in sections I through 25 of P.L.2003. c. 210 (C.55:19-78 through C.55:19-102) and section 3 of P.L.2006. c.24 (C.55:19-107):

"Department" means the New Jersey Department of Community Affairs.

"Lienholder" or "mortgage holder" means any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

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"Municipality" means any city, borough, town, township or village situated within the boundaries of this State and shall include a qualified rehabilitation entity that may be designated by the municipality pursuant to section 13 of P.L.2003.

c. 210 (C\55:19-90> to act as its agent to exercise any of the municipality's rights pursuant thereto.

"Owner" means the holder or holders of title to an abandoned property.

"Property" means any building or structure and the land appurtenant thereto.

"Public officer" means the person designated by the municipality pursuant to section 3 of P.L. 1942. c. 112 (C.40:48-2.5) or any officer of the municipality qualified to carry out the responsibilities set forth in P.L.2003. c. 210 (C.55:19-78 et al.) and designated by resolution of the governing body of the municipality, except that in municipalities organized under the "mayor-council plan" of the Optional Municipal Charter Law. P.L. 1950. e. 210 (C.40:69A-I el seq.). the public officer shall be designated by the mayor.

"Qualified rehabilitation entity" means an entity organized or authorized to do business under the New Jersey statutes which shall have as one of its purposes the construction or rehabilitation of residential or non-residential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in P.L.2003. c. 210 (C.55:19-78 et al.) to carry out the rehabilitation of vacant buildings in urban areas.

"Utility" means any electric or natural gas public utility that is regulated under the jurisdiction of the Board of Public Utilities.

## **55:19-81. Abandoned property; criteria**

Effective: June 29.2005 Currentness

Except as provided in section 6 of P.L.2003. c. 210 (C.55:19-83). any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:

- a. The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period:
- b. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section:

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c. At least one installment of property tax remains unpaid and delinquent on that property in accordance with chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the public officer pursuant to this section: or

**d. The property has been determined to be a nuisance by the public officer in accordance with section 5 of P.L.2003.**

c. 210 (C.55:19-82).

A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L.2003. c. 210 (C.55:19-78 cl al.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either subsection a. or subsection d. of this section.

## **55:19-82. Nuisance property; criteria**

Effective: January 8, 2004 Currentness

A property may be determined to be a nuisance if:

a. The property has been found to be unfit for human habitation, occupancy or use pursuant to section 1 of P.L. 1942,

c. 112 (0.40:48-2.3):

b. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties:

c. The property is subject to unauthorized entry leading to potential health and safety hazards: the owner has failed to take reasonable and necessary measures to secure the property: or the municipality has secured the property in order to prevent such hazards alter the owner has failed to do so:

d. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards: or

e. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

A public officer who determines a property to be a nuisance pursuant to subsections b. through e. of this section shall follow the notification procedures set forth in P.L. 1942. c. 112 (C.40:48-2.3 et seq.).

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## 55:19-79- Legislative findings and declarations

Effective: January 8, 2004 Currentness

The Legislature finds and declares that:

- a. Abandoned properties, particularly those located within urban areas or in close proximity to occupied residences and businesses, create a wide range of problems for the communities in which they are located, fostering criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas.
- b. Abandoned properties diminish the property values of neighboring properties and have a negative effect on the quality of life of adjacent property owners, increasing the risk of property damage through arson and vandalism and discouraging neighborhood stability and revitalization.
- c. For these reasons, abandoned properties are presumptively considered to be nuisances, in view of their negative effects on nearby properties and the residents or users of those properties.
- d. The continued presence of abandoned properties in New Jersey's communities acts as a significant barrier to urban revitalization and to the regeneration of the State's urban centers.
- c. Abandonment is a local problem that must be addressed locally and the most important role of State government is to provide local governments, local community organizations, citizens, and residents with the tools to address the problem.
- f. The responsibility of a property owner to maintain a property in sound condition and prevent it from becoming a nuisance to others extends to properties which are not in use and 'demolition by neglect', leading to the deterioration and loss of the property, or failure by an owner to comply with legitimate orders to demolish, stabilize or otherwise repair his or her property creates a presumption that the owner has abandoned the property.
- g. Many abandoned buildings still have potential value for residential and other uses and such buildings should be preserved rather than demolished, wherever feasible, particularly buildings that have historic or architectural value, or contribute to maintaining the character of neighborhoods or streetscapes, or both, as the case may be.

## 55:19\*78. Short title

Effective: January 8, 2004 Currentness

This act shall be known and may be cited as the "Abandoned Properties Rehabilitation Act"