

**ASSEMBLY, No. 2878**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED FEBRUARY 20, 2020

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**SYNOPSIS**

Establishes standards for electronic tax lien sales.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning electronic tax lien sales, supplementing  
2 P.L.2001, c.160 (C.54:5-19.1), and amending various parts of the  
3 statutory law.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) The Legislature finds and declares that:

9 a. Each of New Jersey's 565 municipalities is required to  
10 conduct a sale at least once every year in an effort to recoup the  
11 value of liens filed for delinquent property taxes and for unpaid fees  
12 involving municipal services, such as water and sewer services and  
13 garbage collection.

14 b. Tax sales involve the auction of tax liens. Tax lien auctions  
15 have generated controversy in recent years because the interest rates  
16 associated with liens from unpaid residential taxes and municipal  
17 fees are sometimes exorbitant and unfairly burdensome. Moreover,  
18 electronic tax lien sales authorized under a 2001 pilot program have  
19 been criticized because they lack oversight, transparency, and  
20 accountability, and are therefore vulnerable to bid rigging and other  
21 forms of manipulation.

22 c. Concerns over improprieties in the administration of tax lien  
23 auctions—particularly with regard to electronic tax lien sales—  
24 prompted the State Commission of Investigation (“SCI”) to  
25 investigate the integrity of the process.

26 d. SCI's investigation discovered that the Department of  
27 Community Affairs never publicly sought any applications, issued  
28 any requests for proposals, or sought any competitive bids, to select  
29 a vendor to conduct electronic tax lien sales. A lone vendor  
30 received State approval to conduct electronic tax lien sales, and the  
31 department's rules allowed municipalities to contract with that  
32 vendor without being subject to the public bidding requirements of  
33 the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et  
34 seq.). The department approved the vendor, its partner, and  
35 subcontractors, without checking the firms' professional references  
36 and inquiring into the firms' ownership structure.

37 e. Loose administration and oversight by the State, a lack of  
38 competition, and limited monitoring and control over the fees  
39 charged by the vendor, have left local governments vulnerable to  
40 unreasonable cost escalations and abuse.

41 f. SCI recommended significant reforms in order to ensure the  
42 integrity of the electronic tax lien sale system and to safeguard the  
43 best interests of the State, its local government units, and the  
44 taxpayers at large.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 g. It is appropriate for the Legislature to adopt some of the  
2 recommended reforms proposed by SCI to bring about a high level  
3 of integrity for the electronic tax lien sale system.

4  
5 2. (New section) a. Within 30 days of the effective date of  
6 P.L. , c. (C. ) (pending before the Legislature as this bill),  
7 the Department of Community Affairs shall solicit proposals from  
8 nationally recognized electronic municipal tax lien services in order  
9 to create a list of qualified vendors from which municipalities may  
10 select a vendor to conduct electronic tax lien sales pursuant to  
11 section 1 of P.L.2001, c.160 (C.54:5-19.1). The department shall  
12 select at least five nationally recognized electronic municipal tax  
13 lien services to conduct electronic tax lien sales. The department  
14 may periodically solicit additional nationally recognized electronic  
15 municipal tax lien services to conduct electronic tax lien sales, in  
16 accordance with this section, as the department determines to be  
17 necessary or desirable.

18 b. The Department of Community Affairs shall solicit  
19 quotations from nationally recognized electronic municipal tax lien  
20 services in the following manner:

21 (1) A notice requesting quotations shall be published on the  
22 Internet website of the department. In its request for quotations, the  
23 department shall require vendors to demonstrate experience  
24 providing some form of tax lien-related services within New Jersey,  
25 and nationwide experience in the electronic publication of tax lien  
26 sale notices, electronic auctions, electronic payment for purchased  
27 liens, and digital signature validation. The request for quotations  
28 shall require that vendors demonstrate the ability to offer software  
29 for conducting electronic tax lien sales with the following  
30 functions:

31 (a) The ability for users to create a list of favorite properties  
32 subject to a tax lien sale on which they may want to bid;

33 (b) An interactive mapping tool for locating properties subject  
34 to a tax lien sale;

35 (c) A detailed listing for each property subject to a tax lien sale  
36 which shall include, but not be limited to, the street address of the  
37 property, the assessed value of the property, the property tax bill  
38 from the prior tax year to which the property was subject, and the  
39 use for which the property is zoned; and

40 (d) A method for users to bid by proxy through which a user can  
41 select a minimum interest rate that the user is willing to offer or  
42 maximum premium that the user is will to pay for multiple  
43 properties on which the user wants to bid.

44 Vendors shall have at least 20 days to respond to the  
45 department's request.

46 (2) Each interested vendor shall submit a quotation, which shall  
47 include all the information required by the request for quotations.

1 Failure to meet the requirements of the request may result in the  
2 department disqualifying the vendor from further consideration.

3 (3) Each interested vendor shall submit a statement of corporate  
4 ownership pursuant to section 1 of P.L.1977, c.33 (C.52:25-24.2) at  
5 the time specified by the department for the receipt of quotations.  
6 If the department selects a vendor, then that vendor shall continue  
7 to provide the department with updated corporate ownership  
8 statements for as long as the vendor remains on the department's  
9 qualified list of vendors established pursuant to this section.

10 (4) The department shall evaluate all quotations in accordance  
11 with the methodology described in the request. After the  
12 department has evaluated all quotations, the department shall  
13 prepare a report evaluating and recommending a list of qualified  
14 vendors suitable to conduct electronic tax lien sales pursuant to  
15 section 1 of P.L.2001, c.160 (C.54:5-19.1) and capable of providing  
16 an application with the functions described in paragraph (1) of this  
17 subsection. The report shall list the names of all potential vendors  
18 with the requisite experience who submitted a quotation and shall  
19 summarize the quotation and corporate ownership of each vendor.  
20 The report shall rank vendors in order of evaluation, shall select all  
21 qualified vendors, and shall be clear in the reasons why the  
22 department selected the vendors. The report shall be made  
23 available to each municipality in the State and shall be published on  
24 the department's Internet website.

25 c. (1) Within 60 days of the effective date of  
26 P.L. , c. (C. ) (pending before the Legislature as  
27 this bill), the Director of the Division of Local Government  
28 Services in the department shall release a Local Finance Notice  
29 providing guidance to municipalities related to contracting with  
30 vendors to conduct electronic tax lien sales, including, but not  
31 limited to, suggested contract terms and durations, permissibility of  
32 assignment to another vendor, fees, indemnification, warranties,  
33 disclosure of any subcontractors, and language assuring that  
34 vendors and their principals do not participate as bidders in tax lien  
35 sales conducted by the vendor or any related entity.

36 (2) The director shall release, as the director deems appropriate,  
37 Local Finance Notices providing recommendations related to  
38 general bidding rules that should be enforced during actual  
39 electronic tax lien sales, including, but not limited to, protocols to  
40 ensure only legitimate bidders register; obtaining non-collusion  
41 affidavits that are consistent with federal and State antitrust laws;  
42 prohibitions against bidders actually or effectively bidding against  
43 themselves; and the actual operation of the sale, such as the process  
44 for selecting winners, sale duration, and whether bidding should be  
45 transparent or blind.

46 d. The department shall adopt additional rules and regulations,  
47 in accordance with the "Administrative Procedure Act,"

1 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to  
2 effectuate the provisions of this section.

3

4 3. (New section) a. A municipality may, without advertising  
5 for bids, contract with a vendor selected and approved by the  
6 Department of Community Affairs pursuant to section 2 of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
8 conduct electronic tax lien sales pursuant to section 1 of  
9 P.L.2001, c.160 (C.54:5-19.1).

10 b. A municipality shall receive a statement of corporate or  
11 partnership ownership pursuant to section 1 of P.L.1977, c.33  
12 (C.52:25-24.2) for each of the vendor's significant subcontractors.  
13 For the purpose of this subsection, "significant subcontractor"  
14 means an entity expected to receive 25 percent or more of estimated  
15 contract revenue.

16

17 4. (New section) Within 90 days of the effective date of  
18 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
19 Director of the Division of Local Government Services in the  
20 Department of Community Affairs, in consultation with the  
21 Director of the Division of Taxation in the Department of the  
22 Treasury, shall report to the Governor and the Legislature, pursuant  
23 to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the efficacy of  
24 electronic tax lien sales. The report shall include an assessment of  
25 the pilot program established in subsection c. of section 1 of  
26 P.L.2001, c.160 (C.54:5-19.1), including an evaluation of the  
27 performance of any vendor receiving approval from the department  
28 to conduct electronic tax lien sales under the pilot program;

29

30 5. Section 1 of P.L.2001, c.160 (C.54:5-19.1) is amended to  
31 read as follows:

32 1. a. Any provision of law to the contrary notwithstanding, a  
33 municipality may satisfy requirements of the "tax sale law,"  
34 R.S.54:5-1 et seq., electronically through the use of any nationally  
35 recognized electronic municipal tax lien service, including, but not  
36 limited to, electronic publication of tax lien sale notices, electronic  
37 auctions, electronic payment for purchased liens, digital signature  
38 validation, or any other matters necessary for the conduct of  
39 electronic tax lien sales in accordance with rules, regulations and  
40 procedures promulgated by the Director of the Division of Local  
41 Government Services in the Department of Community Affairs in  
42 accordance with the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.).

44 b. Any tax sale notices required to be sent to a property owner  
45 or lienholder shall continue to be made by mail pursuant to the "tax  
46 sale law," R.S.54:5-1 et seq.

1 c. **【**The director may authorize "electronic tax lien sale" pilot  
2 programs on a case-by-case basis upon application of individual  
3 municipalities prior to the director's promulgation of rules,  
4 regulations and procedures pursuant to subsection a. of this  
5 section.**】** (Deleted by amendment, P.L. , c. (C. ) (pending  
6 before the Legislature as this bill)  
7 (cf: P.L.2001, c.160, s.1)

8  
9 6. R.S.54:5-25 is amended to read as follows:

10 54:5-25. a. After completing the list or sections thereof the  
11 collector shall give public notice of the time and **【**place**】** physical  
12 or electronic location of sale, stating the description of the several  
13 lots and parcels of land and the owner's name as contained in the  
14 list, together with the total amount due thereon respectively as  
15 computed to the date of tax sale and stating in substance that the  
16 respective lands will be sold to make the amounts severally  
17 chargeable against them on said date as computed in the list,  
18 together with interest to the date of sale, and the costs of sale. **【**No  
19 other statements need be included in the notice**】** The notice shall be  
20 provided with a description of how the owner can pay off the tax  
21 lien and a clear disclosure of the consequences of the tax lien sale,  
22 including any delinquency interest or other fees the owner may  
23 incur.

24 b. After completing a sale, the lien holder shall notify the  
25 owner that a lien on the owner's property has been sold. The notice  
26 shall be provided with a description of how the owner can pay off  
27 the tax lien and a clear disclosure of the consequences of the tax  
28 lien sale, including any delinquency interest or other fees the owner  
29 may incur. The Department of Community Affairs shall create a  
30 standard notice form for lien holders to use in notifying an owner  
31 that a lien on the owner's property has been sold.  
32 (cf: P.L.1991, c.75, s.45)

33  
34 7. R.S.54:5-27 is amended to read as follows:

35 54:5-27. When the owner's name appears in the list and his  
36 post-office address is known, the collector shall mail to him at that  
37 address, postage prepaid, a copy of the notice. The notice shall be  
38 provided with a description of how the owner can pay off the tax  
39 lien and a clear disclosure of the consequences of the tax lien sale,  
40 including any delinquency interest or other fees the owner may  
41 incur. Failure to mail the notice shall not invalidate any proceeding  
42 hereunder.  
43 (cf: R.S.54:5-27)

44  
45 8. R.S.54:5-28 is amended to read as follows:

46 54:5-28. At the time and **【**place**】** physical or electronic  
47 location fixed for the sale and from time to time thereafter the

1 collector may adjourn the sale in his discretion, either for want of  
2 bidders or at the request of persons interested, or for any other  
3 reason satisfactory to him, from day to day or from week to week,  
4 on making public announcement thereof, and noting the  
5 adjournment on the list. Adjournments shall not be made for more  
6 than eight weeks in all, after which new public notice shall be given  
7 as hereinbefore provided if further sale is to be made.

8 (cf: R.S.54:5-28)

9  
10 9. Section 1 of P.L.1962, c.161 (C.54:5-30.1) is amended to  
11 read as follows:

12 1. Whenever the governing body of a municipality shall by  
13 resolution determine that a particular parcel or parcels of real estate,  
14 scheduled to be sold at public auction pursuant to the tax sale law,  
15 would be useful for a public purpose, it may authorize and direct a  
16 municipal official to attend the auction or participate electronically,  
17 as applicable, and bid for such parcel or parcels at such sale on  
18 behalf of the municipality in the same manner as any other bidder.

19 (cf: P.L.1962, c.161, s.1)

20  
21 10. R.S.54:5-31 is amended to read as follows:

22 54:5-31. At the time and **[place]** physical or electronic location  
23 specified in the notice of sale, or adjournment, the collector shall  
24 sell at public auction each parcel of real property which has been so  
25 advertised, upon which the municipal liens remain unpaid, unless an  
26 error is found requiring readvertisement. The sale shall be made for  
27 the amount for which the parcel was advertised, unless that amount  
28 is found to be in excess of the correct amount, and then for the  
29 correct amount together with the interest thereon unless such  
30 interest has already been included in the notice of sale and the costs  
31 of sale.

32 (cf: P.L.1991, c.75, s.46)

33  
34 11. R.S.54:5-90 is amended to read as follows:

35 54:5-90. Where judgment is taken against unknown owners or  
36 claimants as provided by Rules of the Supreme Court, their equity  
37 of redemption shall be foreclosed and barred without further  
38 publication upon their failure to redeem the lands affected by the  
39 action, but notice of the date limited for redemption, the place to  
40 redeem and the amount necessary to redeem shall be posted upon  
41 the lands at least twenty days before the date so fixed. The notice  
42 shall be provided with a description of how the owner can pay off  
43 the amount necessary to redeem and a clear disclosure of the  
44 consequences of the judgment that will be entered against the  
45 owner, including any fees the owner may incur. No such judgment,  
46 after it has been entered for more than five years, shall be attacked  
47 on the ground of insufficient inquiry for the identity, name or  
48 address of any defendant, his heirs, assigns or personal

1 representatives, even though the same might have been ascertained  
2 by such inquiry.

3 (cf: P.L.1953, c.51, s.43)

4

5 12. This act shall take effect immediately.

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#### STATEMENT

9

10 This bill is in response to an investigative report issued by the  
11 State Commission of Investigation (“SCI”), dated June 30, 2015,  
12 concerning questionable contracting in electronic tax lien sales.  
13 Concerns over improprieties in the administration of tax lien  
14 auctions—particularly with regard to electronic tax lien sales—  
15 prompted SCI to investigate the integrity of the process.

16 This bill would implement some of SCI’s recommendations in  
17 order to reform the electronic tax lien sale system. Under the bill,  
18 the Department of Community Affairs (“DCA”) would evaluate and  
19 select vendors to conduct electronic tax lien sales. The bill requires  
20 DCA to publish on its website a request for quotations from  
21 nationally recognized electronic municipal tax lien services. The  
22 request for quotations will require that vendors demonstrate the  
23 ability to offer software for conducting electronic tax lien sales with  
24 the following functions:

- 25 • The ability for users to create a list of favorite properties  
26 subject to a tax lien sale on which they may want to bid;
- 27 • An interactive mapping tool for locating properties subject  
28 to a tax lien sale;
- 29 • A detailed listing for each property subject to a tax lien sale  
30 which shall include, but not be limited to, the street address of  
31 the property, the assessed value of the property, the property tax  
32 bill from the prior tax year to which the property was subject,  
33 and the use for which the property is zoned; and
- 34 • A method for users to bid by proxy through which a user can  
35 select a minimum interest rate or maximum premium for multiple  
36 properties on which the user wants to bid.

37 Vendors seeking selection would be required to disclose their  
38 corporate or other ownership and to submit other information  
39 required by DCA. After evaluating the quotations submitted by  
40 interested vendors, DCA would create a list of at least five qualified  
41 vendors from which municipalities may select a vendor to conduct  
42 electronic tax lien sales.

43 Under the bill, a municipality may, without advertising for bids,  
44 contract with a vendor selected and approved by the Department of  
45 Community Affairs pursuant to this bill to conduct electronic tax  
46 lien sales. To contract with a municipality, a vendor must provide  
47 the municipality with a corporate disclosure form for its significant  
48 subcontractors. The bill defines “significant subcontractor” as any



1 entity expected to receive 25 percent or more of estimated contract  
2 revenue.

3 The bill also requires the Director of the Division of Local  
4 Government Services in the Department of Community Affairs, in  
5 consultation with the Director of the Division of Taxation in the  
6 Department of the Treasury to report to the Governor and the  
7 Legislature, within 90 days of the effective date, on the efficacy of  
8 electronic tax lien sales. The report must include an assessment of  
9 the pilot program established in P.L.2001, c.160 (C.54:5-19.1),  
10 including an evaluation of the performance of the vendor receiving  
11 approval from the department to conduct electronic tax lien sales  
12 under the pilot program;

13 The bill amends the notice requirements concerning tax lien  
14 sales. At each stage of the tax lien process, the owner of the  
15 property subject to the lien must receive a notice that includes a  
16 description of how the owner can pay off any outstanding debt and  
17 a clear disclosure of the consequences of the tax lien sale. The bill  
18 also requires lien holders, after the completion of a tax lien sale, to  
19 notify the property owner that the lien on the owner's property has  
20 been sold. The notice would be provided with a description of how  
21 the owner can pay off any outstanding debt and a clear disclosure of  
22 the consequences of the tax lien sale, including any delinquency  
23 interest or other fees the owner may incur.

24 Lastly, the bill facilitates the establishment of electronic tax lien  
25 sales by eliminating the pilot program status of such sales, as  
26 recommended by the SCI report.