

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2033

STATE OF NEW JERSEY

ADOPTED JUNE 3, 1996

Sponsored by Assemblyman JONES

1 AN ACT authorizing the public sale of a municipal property tax levy to
2 the highest bidder, amending R.S.54:4-67 and R.S.54:5-19, and
3 supplementing various sections of statutory law.

4

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

7

8 1. R.S.54:4-67 is amended to read as follows:

9 54:4-67. a. The governing body of each municipality may by
10 resolution fix the rate of discount to be allowed for the payment of
11 taxes ~~[or]~~, assessments, or other municipal charges previous to the
12 date on which they would become delinquent. The rate so fixed shall
13 not exceed 6% per annum, shall be allowed only in case of payment on
14 or before the thirtieth day previous to the date on which the taxes ~~[or]~~,
15 assessments, or other municipal charges would become delinquent.
16 The governing body may also fix the rate of interest to be charged for
17 the nonpayment of taxes ~~[or]~~, assessments, or other municipal charges
18 on or before the date when they would become delinquent, and may
19 provide that no interest shall be charged if payment of any installment
20 is made within the tenth calendar day following the date upon which
21 the same became payable. The rate so fixed shall not exceed ~~[8% per~~
22 annum on the first \$1,500.00 of the delinquency and] 18% per annum
23 [on any amount in excess of \$1,500.00], to be calculated from the date
24 the tax was payable until the date that actual payment to the lienholder
25 will be next authorized.

26 b. In any year when the governing body changes the rate of
27 interest to be charged for delinquent taxes, assessments or other
28 municipal charges, the governing body shall include with the next
29 property tax bill mailed after adoption of a resolution changing the rate
30 of interest, a notice to all taxpayers stating the previous rate, the new
31 rates to be charged and the date that the new rates take effect. The
32 notice shall be separate from the tax bill and printed in at least 12 point

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 type, with at least a 24 point bold headline entitled, "Notice of Change
2 of Interest Rate." No change in the rate of interest shall take effect
3 until the required notice has been provided in accordance with this
4 paragraph.

5 c. In municipalities that have sold their property tax levy pursuant
6 to section 7 of P.L. , c. (C.) (now pending before the
7 Legislature as this bill), the rate of interest to be charged for the
8 nonpayment of taxes, assessments or other municipal charges shall be
9 the same interest rate charged by the municipality, to be calculated
10 from the date the tax was payable until the date of actual payment to
11 the tax collector. The purchaser of the property tax levy shall not be
12 entitled to collect an amount that is greater than the amount that is
13 owing and due to the tax collector.

14 "Delinquency" means the sum of all taxes and municipal charges
15 due on a given parcel of property covering any number of quarters or
16 years. The property shall remain delinquent, as defined herein, until
17 such time as all unpaid taxes, including subsequent taxes and liens,
18 together with interest thereon shall have been fully paid and satisfied.
19 The delinquency shall remain notwithstanding the issuance of a
20 certificate of sale pursuant to R.S.54:5-32 and R.S.54:5-46. The
21 governing body may also fix a penalty to be charged to a taxpayer with
22 a delinquency in excess of \$10,000 who fails to pay that delinquency
23 prior to the end of the fiscal year. If such taxes are fully paid and
24 satisfied by the holder of an outstanding tax sale certificate, the holder
25 shall be entitled to receive the amount of the penalty as part of the
26 amount required to redeem such certificate of sale. The penalty so
27 fixed shall not exceed 6% of the amount of the delinquency with
28 respect to the most recent fiscal year only.

29 (cf: P.L.1994, c.32, s.4)

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31 2. R.S.54:5-19 is amended to read as follows:

32 54:5-19. When unpaid taxes or any municipal lien, or part thereof,
33 on real property, remains in arrears on April first in the fiscal year
34 following the fiscal year when the same became in arrears, or, in the
35 case of municipalities that operate on the State fiscal year, on October
36 first in the fiscal year following the fiscal year when the same became
37 in arrears, the collector or other officer charged by law in the
38 municipality with that duty, shall subject to the provisions of the next
39 paragraph, enforce the lien by selling the property in the manner set
40 forth in this article. Alternatively, a municipality, by resolution, may
41 determine to conduct its public tax lien sale or levy sale in the final
42 month of its fiscal year provided that all statutory notice requirements
43 are followed.

44 The term "collector" as hereinafter used includes any such officer,
45 and the term "officer" includes the collector.

46 The municipality may by resolution direct that where unpaid taxes

1 or other municipal liens, or part thereof, are in arrears for more than
2 one year, such sale shall include only such unpaid taxes or other
3 municipal liens as were in arrears in the year designated in such
4 resolution, and may by resolution, either general or special, direct that
5 there shall be omitted from such sale any or all such unpaid taxes, and
6 other municipal liens, or parts thereof, on real property, upon which
7 regular, equal monthly installment payments are being made, in
8 pursuance to such agreement as may be authorized by said resolution
9 between the collector and the owner or person interested in the
10 property upon which such delinquent taxes may be due; provided, that
11 said agreement shall require payment of such installment payments in
12 amounts large enough to pay in full all delinquent taxes, assessments
13 and other municipal liens held by the municipality, in not more than
14 five years from the date of such agreement; provided, that the
15 extension of time for payment of such arrearages herein authorized
16 shall not apply to any parcel of property which prior thereto has been
17 included in any plan theretofore adopted by any municipality of this
18 State under and pursuant to the provisions of any public statute of this
19 State whereunder prior extensions for the payment of delinquent taxes
20 were authorized; provided further, that the right of any person
21 interested in such property to pay such arrears in such installments
22 shall be conditioned on the prompt payment of the installments of
23 taxes for the current year in which such agreement is made, and all
24 subsequent taxes, assessments and other municipal liens imposed or
25 becoming a lien thereafter, including all installments thereafter payable
26 on assessments theretofore levied, and also the prompt payment of all
27 installments of arrears as hereinbefore authorized; and provided
28 further, that in case any such installment of arrears or any new taxes,
29 assessments or other liens are not promptly paid, that is to say, within
30 thirty days after the date when the same is due and payable, then such
31 agreement shall be void, and in any such case the collector, or other
32 officer charged by law with that duty, shall proceed to enforce such
33 lien by selling in the manner in this article provided.

34 (cf: P.L.1991, c.75, s.43)

35

36 3. (New section) A municipality may reduce its reserve for
37 uncollected taxes by deducting any or all payments anticipated during
38 the fiscal year from the sale of the property tax levy pursuant to
39 subsection c. of section 8 of P.L. , c. (C.) (now pending
40 before the Legislature as this bill), from the reserve for uncollected
41 taxes as calculated pursuant to N.J.S.40A:4-30 and N.J.S.40A:4-31,
42 provided that the obligation to make such payment is entered into
43 prior to adoption of the budget. Any revenues received pursuant to
44 this section may be excluded from any calculation of the tax collection
45 rate or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

46

1 4. (New section) A municipality may reduce its reserve for
2 uncollected taxes by deducting any or all receipts anticipated during
3 the fiscal year from the sale of unpaid taxes or municipal liens when
4 conducted in the final month of the fiscal year as allowed pursuant to
5 R.S.54:5-19, provided that such amount be calculated in the same
6 manner as receipts for delinquent taxes are calculated in N.J.S.40A:4-
7 29, and that prior to adoption of the budget, such sale is authorized by
8 resolution of the governing body. Any revenues received pursuant to
9 this section shall be excluded from any calculation of the tax collection
10 rate or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

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12 5. (New section) Prior to the award of a contract for the sale of
13 the property tax levy pursuant to section 7 of P.L. , c. (C.)
14 (now pending before the Legislature as this bill), or when a
15 municipality chooses to reduce its reserve for uncollected taxes by
16 deducting the receipts anticipated during the fiscal year from the sale
17 of unpaid taxes or municipal liens when conducted in the final month
18 of the fiscal year as allowed pursuant to R.S.54:5-19, the chief
19 financial officer shall provide the governing body a fiscal analysis of
20 the impact of the sale on the current and projected budget for the
21 subsequent year. The Director of the Division of Local Government
22 Services in the Department of Community Affairs may provide a
23 standard form to be used for this purpose, which shall include, but not
24 be limited to, the amount of the reserve for uncollected taxes, receipts
25 for delinquent taxes and the municipal tax rate. The analysis shall be
26 a public record.

27

28 6. (New section) Notwithstanding the payment of any property
29 taxes, assessments or municipal charges by the purchaser of the
30 property tax levy pursuant to subsection c. of section 8 of P.L. ,
31 c. (C.) (now pending before the Legislature as this bill), the
32 accounts of the properties shall be deemed delinquent for purposes of
33 the creation, assignment, sale, redemption and foreclosure of tax lien
34 certificates.

35 The purchaser of a property tax levy pursuant to section 7 of
36 P.L. , c. (C.) (now pending before the Legislature as this
37 bill) and the municipality shall comply with the notice and redemption
38 provisions relating to the creation of tax certificates as hereinafter
39 provided, except the purchaser shall not be required to purchase, nor
40 will the municipality be required to sell, the tax lien certificates by
41 public sale, if the right to purchase the certificates has been assigned
42 or sold in advance to the levy purchaser in connection with the sale of
43 the property tax levy.

44

45 7. (New section) Notwithstanding the provisions of any other
46 law, rule or regulation to the contrary, a municipality may, by

1 resolution of the governing body, agree to sell its property tax levy,
2 including the assignment or sale of any subsequently created property
3 tax lien certificates relating to the delinquent properties, to a third
4 party, at a public sale to the highest responsible bidder, subject to the
5 terms and conditions of law and the bid specifications. The sale shall
6 be held after a copy of the public notice of sale stating the manner of
7 submitting and method of receiving the bids and the time and place of
8 sale has been published in a legal newspaper circulating within the
9 municipality at least 14 days in advance of the date fixed for receiving
10 bids.

11

12 8. (New section) The sale of the property tax levy shall be subject
13 to the following minimum terms and conditions:

14 a. The municipality shall have the right to set a minimum price,
15 including reserving the right to reject any and all bids if, in the
16 discretion of the municipality, it determines that the bid sale price is
17 inadequate.

18 b. The municipality shall require the successful bidder, within a
19 reasonable period of time after being selected, to secure its payment
20 obligation with either an irrevocable letter of credit or a bond from a
21 surety company, the sufficiency of which is acceptable to and
22 approved by the municipality, but which shall not be less than the
23 amount of the reserve for uncollected taxes for the prior year or the
24 amount actually paid by the levy purchaser in the prior year, whichever
25 is greater, or, in the case of a levy sale in the final month of the fiscal
26 year, an amount equal to the actual tax collection delinquency for that
27 fiscal year.

28 c. The purchaser shall pay for the tax levy bid amount in quarterly
29 installments or, if there is to be one annual installment, after the last
30 fiscal year quarterly delinquent date as indicated in the contract for the
31 sale of the tax levy. These installments shall be due no earlier than 10
32 days, and no later than 30 days after the quarterly tax due date, except
33 that if there is to be one annual installment payment prior to the end
34 of the fiscal year as indicated in the contract for the sale of the tax
35 levy, upon the presentation of a certification from the tax collector
36 stating; (1) the amount of property taxes that are delinquent for the
37 quarter or year, as appropriate, and (2) a list of the amount of the
38 delinquent property taxes for each property, which property shall be
39 identified by block, lot and street address, including the name and
40 mailing address of the owner and any mortgagee shown on the tax
41 records. At the time of the quarterly or annual payment, as
42 appropriate, the purchaser shall receive as a credit against the payment
43 due, an amount equal to the taxes paid to the tax collector.

44 d. Upon payment in full of the quarterly delinquent property taxes,
45 the purchaser shall have the same rights and obligations as the
46 municipality to collect, through the municipal tax collector, delinquent

1 property taxes, including all fees, interest and costs, and to foreclose
2 the subsequently created liens, all as provided for and limited by law,
3 except that the purchaser shall have the right of foreclosure pursuant
4 to R.S.54:5-86 et seq.

5 e. Upon the receipt of a duly issued tax sale certificate any tax lien
6 purchaser shall have the right to purchase subsequent property tax
7 delinquencies relating to the properties upon payment of the full
8 amount of principal and interest due. That right shall expire at a
9 subsequent sale by the municipality of its tax levy or on the date the
10 municipality sells the delinquencies at a tax sale, whichever occurs
11 earlier.

12 f. The purchaser shall be required to purchase, at the time of
13 creation of the property tax lien certificates, any other delinquent
14 municipal charges relating to the delinquent properties, including
15 water and sewer charges. The purchaser shall pay the full amount of
16 the principal and interest due for those charges as of the date of the
17 assignment as provided for pursuant to R.S.54:5-112, R.S.54:5-113,
18 R.S.54:5-114, section 1 of P.L.1941, c.232 (C.54:5-114.1), and
19 section 1 of P.L.1943, c.149 (C.54:5-114.2).

20 g. At the time of creation of the property tax lien certificates, the
21 purchaser shall have the right, but not the obligation, to acquire by
22 assignment all tax lien certificates held by the municipality on any
23 particular property, excluding, however, those certificates for which
24 a resolution for redemption of a lien by installment payments has been
25 adopted pursuant to R.S.54:5-65 and those certificates relating to
26 properties upon which is located a hazardous discharge site, as listed
27 by the Department of Environmental Protection pursuant to section 3
28 of P.L.1982, c.202 (C.58:10-23.17). This right of the purchaser may
29 be exercised only if the purchaser's bid is equal to or greater than 98%
30 of the combined dollar value of the tax levy and the full redemptive
31 value of the municipal tax lien certificates so assigned.

32 h. The collection of taxes and the preparation of redemption
33 statements and discharges of tax lien certificates shall remain the right
34 and obligation of the municipal tax collector.

35 i. The purchaser shall provide quarterly account status reports and
36 such other financial data and reports as are requested by the
37 municipality.

38 j. The purchaser of the tax levy may be obligated by contract to
39 pay all subsequent taxes, municipal liens and other municipal charges
40 on each tax sale certificate acquired under the tax levy purchase until
41 the next following tax levy sale or until redemption or foreclosure of
42 the tax sale certificate has been completed, whichever occurs first.
43 The tax levy purchase contract may provide that failure to make such
44 payments shall result in the forfeiture of any such certificate and any
45 amount due thereon and require the assignment of the certificate back
46 to the municipality.

1 9. (New section) The Director of the Division of Local
2 Government Services in the Department of Community Affairs, in
3 accordance with the "Administrative Procedure Act," P.L.1968, c.410
4 (C.52:14B-1 et seq.), may adopt such rules and regulations as are
5 necessary to effectuate the purposes of this act.

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7 10. This act shall take effect immediately.

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12 Permits municipality to sell property tax levy to highest bidder at
public auction.