

CHAPTER 99

AN ACT authorizing the public sale of a total municipal property tax levy to the highest bidder and amending and supplementing various sections of statutory law.

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

1. R.S.54:4-65 is amended to read as follows:

Form and content of property tax bills.

54:4-65. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall approve the form and content of property tax bills.

b. Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per \$100.00 of assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill. There shall be included on or with the tax bill the delinquent interest rate or rates to be charged and any end of year penalty that is authorized.

c. The appropriate tax bill or form mailed with the tax bill shall also contain a statement reporting amounts of State aid and assistance received by the municipality, school districts, special districts and county governments used to offset local tax levies. The director shall provide each tax collector with a certification of the amounts of said State aid and assistance for inclusion in the tax bill.

d. The tax bill or form mailed with the tax bill shall include thereon the date upon which each installment is due.

2. R.S.54:4-66 is amended to read as follows:

When calendar year taxes payable, delinquent.

54:4-66. a. Taxes for municipalities operating under the calendar fiscal year shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1, after which dates if unpaid, they shall become delinquent and remain delinquent until such time as all unpaid taxes, including taxes and other liens subsequently due and unpaid, together with interest have been fully paid and satisfied;

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the interest and penalties hereinafter prescribed;

c. The dates hereinbefore provided for payment of the first and second installments of taxes being before the true amount of the tax will have been determined, the amount to be payable as each of the first two installments shall be one-quarter of the total tax finally levied against the same property or taxpayer for the preceding year or, if directed to do so for the tax year by resolution of the municipal governing body, one-half of the tax levied for the second half of the preceding tax year, as appropriate; and the amount to be payable for the third and fourth installments shall be the full tax as levied for the current year, less the amount charged as the first and second installments; the amount thus found to be payable as the last two installments shall be divided equally for and as each installment. An appropriate adjustment by way of discount shall be made, if it shall appear that the total of the first and second installments exceeded one-half of the total tax as levied for the year;

d. (Deleted by amendment, P.L.1994, c.72).

e. Taxes may be received and credited as payments at any time, even prior to the dates hereinbefore fixed for payment, from the property owners, their agents or lien holders; however, no interest shall accrue until the delinquency date. Up to and including the payment date for each quarter, priority of payment shall be given to the property owner when third party tax liens exist against the property.

3. Section 2 of P.L.1994, c.72 (C.54:4-66.1) is amended to read as follows:

C.54:4-66.1 Fiscal year taxes payable, delinquent; definitions; formulas.

2. Taxes in municipalities operating under the State fiscal year shall be payable and shall be delinquent pursuant to the following provisions:

a. Taxes shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1, after which dates if unpaid, they shall become delinquent and remain delinquent until such time as all unpaid taxes, including taxes and other liens subsequently due and unpaid, together with interest have been fully paid and satisfied;

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the penalties hereinafter prescribed;

c. The following terms and phrases shall have the meaning defined below when calculating taxes under this section:

"Assessed value" means the net valuation taxable of each parcel of property in a municipality in the current tax year.

"Billing percentage" is used to calculate the amount required to meet municipal and non-municipal fiscal obligations for the first six months of the calendar year.

"Calendar year" means the current calendar year.

"Certification of tax billing levies" is the form and associated procedures promulgated by the director on which the tax collector calculates the appropriate billing amounts for the first and second installments of the calendar year.

"Director" means the director of the Division of Local Government Services.

"Municipal tax levy" means the tax levy set in the municipal budget for the current fiscal year.

"Non-municipal tax levy" means the total of all of the tax levies certified by the county board of taxation for non-municipal purposes for the calendar year.

"Preliminary municipal tax levy" is the amount certified by the governing body for the purposes of third and fourth installment municipal tax levy.

"Prior year" means the calendar year just previous to the quarters being billed.

"Six month required non-municipal tax levy" means the amount necessary to be paid by the municipality to the county and non-municipal taxing districts for the first six months of the calendar year.

"Total adjusted prior year taxes" means the prior year taxes billed after adjustments are made to incorporate changes to tax bills between tax billings.

"Total assessed value" means the total net valuation taxable for the municipality pursuant to the most recent Table of Aggregates promulgated by the County Board of Taxation.

d. The following formulas shall be utilized in calculating the taxes for each parcel or property:

(1) the municipal rate shall be the preliminary municipal tax levy divided by the total assessed value per one hundred dollars of assessed valuation.

(2) the non-municipal rate shall be the non-municipal tax levy divided by the total assessed value per one hundred dollars of assessed value.

(3) "Municipal billing percentage" shall be the municipal tax levy less the sum of the adjusted taxes billed for the prior year third and fourth installments, divided by the total adjusted prior year taxes.

(4) "Non-municipal billing percentage" shall be calculated by dividing the six-month required non-municipal tax levy by the total adjusted prior year taxes.

e. Taxes for each parcel or property shall be calculated as follows:

(1) The tax collector shall prepare the certification of tax billing levies and calculate the first and second installments by computing the municipal portion, which shall be the municipal billing percentage multiplied by the total adjusted prior year taxes; and then the non-municipal portion, which shall be the non-municipal billing percentage multiplied by the total adjusted prior year taxes. The sum of the two shall be divided in half for each installment. A copy of the certification shall be filed with the director and the county board of taxation.

(2) The third and fourth installments shall be calculated by computing the municipal portion, which shall be the product of the municipal rate times the total assessed value per one hundred dollars of assessed value, and subtracting the taxes billed for the previous first and second installments; and then the non-municipal portion which shall be the product of the non-municipal rate times the total assessed value per one hundred dollars of assessed value, and subtracting the taxes billed for the previous first and second installments. The sum of the two shall be divided in half for each installment.

f. Taxes may be received and credited as payments at any time, even prior to the dates hereinabove fixed for payment, from the property owners, their agents or lien holders; however, no interest shall accrue until the delinquency date. Up to and including the payment date for each quarter, priority of payment shall be given to the property owner when third party tax liens exist against the property.

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

Discount for prepayment; interest for delinquency.

54:4-67. a. The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent. The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent. No such discount shall apply to the purchaser of a total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5). The governing body may also fix the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens or charges, unless otherwise provided by law, on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable. The rate so fixed shall not exceed 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00, to be calculated from the date the tax was payable until the date that actual payment to the tax collector is made.

b. In any year when the governing body changes the rate of interest to be charged for delinquent taxes, assessments or other municipal charges, or to be charged for the end of the year penalty, the governing body, after adoption of a resolution changing the rate of interest, shall provide a notice to all taxpayers, prior to the date taxes are next due or with the tax bill, stating the new rate or rates to be charged and the date that the new rate or rates take effect. The notice may be separate from the tax bill. No change in the rate of interest or the end of year penalty shall take effect until the required notice has been provided in accordance with this subsection.

c. In municipalities that have sold their property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), the rate of interest to be charged for the nonpayment of taxes, assessments or other municipal liens or charges shall be the same interest or delinquency rate or rates otherwise charged by the municipality, to be calculated from the date the tax was payable until the date of actual payment to the tax collector. The purchaser of the total property tax levy shall be paid only those amounts attributable to properties included in the total property tax levy purchase and actually collected by the tax collector and which amounts shall not include any delinquent interest collected by the municipal tax collector prior to the time that the total property tax levy purchaser makes the levy payment to the municipality.

"Delinquency" means the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters or years. The property shall remain delinquent, as defined herein, until such time as all unpaid taxes, including subsequent taxes and liens, together with interest thereon shall have been fully paid and satisfied. The delinquency shall remain notwithstanding the issuance of a certificate of sale pursuant to R.S.54:5-32 and R.S.54:5-46, the payment of delinquent tax by the purchaser of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5) and for the purposes of satisfying the requirements for filing any tax appeal with the county board of taxation or the State tax court. The governing body

may also fix a penalty to be charged to a taxpayer with a delinquency in excess of \$10,000 who fails to pay that delinquency as billed, prior to the end of the fiscal year. If any fiscal year delinquency in excess of \$10,000 is paid by the holder of an outstanding tax sale certificate or a total property tax levy purchaser, the holder or purchaser, as appropriate, shall be entitled to receive the amount of the penalty as part of the amount required to redeem such certificate of sale providing the payment is made by the tax lien holder or tax levy purchaser prior to the end of the fiscal year. If the holder of the outstanding tax sale certificate or the levy purchaser, as appropriate, does not make the payment in full prior to the end of the fiscal year, then the holder or purchaser shall be entitled to a pro rata share of the delinquency penalty upon redemption, and the balance of the penalty shall inure to the benefit of the municipality. The penalty so fixed shall not exceed 6% of the amount of the delinquency with respect to each most recent fiscal year only.

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

Power of sale; "collector" and "officer" defined.

54:5-19. When unpaid taxes or any municipal lien, or part thereof, on real property, remains in arrears on the 11th day of the eleventh month in the fiscal year when the same became in arrears, the collector or other officer charged by law in the municipality with that duty, shall, subject to the provisions of the next paragraph, enforce the lien by selling the property in the manner set forth in this article, provided that the sale is conducted no earlier than in the last month of the fiscal year.

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

The municipality may by resolution direct that when unpaid taxes or other municipal liens or charges, or part thereof, are in arrears as of the 11th day of the eleventh month of the fiscal year, such sale shall include only such unpaid taxes or other municipal liens or charges as were in arrears in the fiscal year designated in such resolution, and may by resolution, either general or special, direct that there shall be omitted from such sale any or all such unpaid taxes, and other municipal liens, or parts thereof, on real property, upon which regular, equal monthly installment payments are being made, in pursuance to such agreement as may be authorized by said resolution between the collector and the owner or person interested in the property upon which such delinquent taxes may be due; provided, that said agreement shall require payment of such installment payments in amounts large enough to pay in full all delinquent taxes, assessments and other municipal liens held by the municipality, in not more than five years from the date of such agreement; provided, that the extension of time for payment of such arrearages herein authorized shall not apply to any parcel of property which prior thereto has been included in any plan theretofore adopted by any municipality of this State under and pursuant to the provisions of any public statute of this State whereunder prior extensions for the payment of delinquent taxes were authorized; provided further, that the right of any person interested in such property to pay such arrears in such installments shall be conditioned on the prompt payment of the installments of taxes for the current year in which such agreement is made, and all subsequent taxes, assessments and other municipal liens imposed or becoming a lien thereafter, including all installments thereafter payable on assessments theretofore levied, and also the prompt payment of all installments of arrears as hereinbefore authorized; and provided further, that in case any such installment of arrears or any new taxes, assessments or other liens are not promptly paid, that is to say, within thirty days after the date when the same is due and payable, then such agreement shall be void, and in any such case the collector, or other officer charged by law with that duty, shall proceed to enforce such lien by selling in the manner in this article provided.

6. R.S.54:5-26 is amended to read as follows:

Notices posted and advertised in newspaper, mail notice.

54:5-26. Copies of the notice of a tax sale shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the

municipality, once in each of the four calendar weeks preceding the calendar week containing the day appointed for the sale. In lieu of any two publications, notice to the property owner and to any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L.1948, c.96 (C.54:5-104.48) may be given by regular or certified mail, the costs of which shall be added to the cost of the sale in addition to those provided in R.S.54:5-38, not to exceed \$25 for each set of notices for a particular property. Failure of the property owner to receive a notice of a tax sale properly mailed by the tax collector shall not constitute grounds to void the subsequent tax sale. If ordinances of the municipality are required to be published in any special newspaper or newspapers, the notice shall be published therein.

7. R.S.54:5-49 is amended to read as follows:

Certificate; issuance to purchaser.

54:5-49. a. Each certificate shall cover only such property as is assessed as one parcel, and shall be prepared ready for delivery to the purchaser within ten days after the sale, including the date of sale as the first day, or the purchaser, other than a total property tax levy purchaser, may refuse to accept it and be entitled to repayment of the purchase price. Thereupon the lien shall be vested in the municipality and a certificate of sale shall be made to it as if originally struck off to it. The certificate shall not be invalid because delivered after the expiration of that period.

b. Tax sale certificates to be issued to the purchaser of a total property tax levy shall be issued within 10 days following the tax sale and after the final fiscal year total property tax levy payment, or thereafter, according to the contract with the municipality. A resolution of entitlement to a tax sale certificate shall be provided by the municipality on any delinquent properties in bankruptcy. Tax sale certificates shall be issued at the conclusion of the bankruptcy proceedings, or earlier, if permissible in connection with the bankruptcy proceeding, dated as of the next tax sale date upon surrender of the resolution of entitlement to the municipality.

8. Section 1 of P.L.1940, c.90 (C.54:5-52.1) is amended to read as follows:

C.54:5-52.1 Destruction, loss of tax title certificate; issuance of duplicate; fee.

1. In case of the destruction or loss of a tax title certificate which was issued by any municipality in this State at a tax sale held in that municipality, the collector of taxes, the receiver of taxes, or the person lawfully charged with the collection of taxes in said municipality shall issue and execute a new certificate of tax sale in place of the one which has been destroyed or lost; provided, he or she shall have been duly authorized so to do by a resolution of the governing body of the said municipality. There shall appear on the new certificate a statement that it is a duplicate of the original one which was destroyed or lost and the date of said original certificate and the date of the tax sale upon which it was issued and the name and title of the officer who issued same. The municipality may charge a fee not to exceed \$100 for such a duplicate certificate.

9. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

C.40A:4-45.3 Municipalities; limitation exceptions.

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had

no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89.

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. (Deleted by amendment, P.L.1990, c.89.)

w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court;

gg. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

hh. Amounts appropriated for the cost of implementing an estimated tax billing system and the issuance of tax bills thereunder pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

ii. Expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5).

10. R.S.54:5-58 is amended to read as follows:

Amount required to redeem.

54:5-58. The amount required to redeem within 10 days from and including the date of sale, unless a tax sale certificate has been duly issued during the 10-day period, shall be the sum paid at the sale, with interest from the date of sale at the rate of redemption for which the property was sold. After 10 days from the date of sale including the date of sale as the first day, or after issuance of the tax sale certificate during the 10-day period, the amount required for redemption shall be that amount plus the expenses incurred by the purchaser as hereinafter provided, and subsequent municipal liens, as provided in sections 54:5-59 and 54:5-60 of this Title. Where, because of municipal fiscal restrictions imposed upon the tax collector, the transmission of the redemption sum to the purchaser is dependent upon the approval of the governing body, or other officer, of the municipality, such interest shall be computed to the time when such governing body or officer may next act with respect thereto.

11. R.S.54:5-60 is amended to read as follows:

Amount required if certificate is not held by municipality.

54:5-60. If the certificate of sale is not held by the municipality, the amount required for redemption shall include all sums for subsequent taxes, municipal liens and charges, and interest and costs thereon, actually paid by the holder of the tax title or his predecessor therein, together with interest on the amount so paid at the rate or rates chargeable by the municipality, provided the holder of such title shall have made and filed with the collecting officer an affidavit showing the amount of such payment, which affidavit may be taken before such officer.

C.40A:4-40.1 Reduction of reserve for uncollected taxes by sale of total property tax levy.

12. a. A municipality may reduce its reserve for uncollected taxes by deducting any or all payments anticipated during the fiscal year from the sale of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), from the reserve for uncollected taxes as calculated pursuant to N.J.S.40A:4-40 and N.J.S.40A:4-41, provided that the obligation to make such payment is entered into prior to adoption of the budget. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

b. A municipality shall not execute a contract for the sale of the total property tax levy unless the Division of Local Government Services in the Department of Community Affairs has reviewed the fiscal impact of the sale of the total property tax levy. The municipality shall forward a copy of a proposed contract and the fiscal analysis of the impact of the sale required to be provided to the municipal governing body pursuant to section 14 of P.L.1997, c.99 (C.40A:4-40.3), as soon as they are available, to the Division of Local Government Services for review. The division shall review the fiscal impact of the contract within 15 business days after receipt and shall approve or disapprove the contract in writing within that time. The director of the division may condition the approval of the contract on budget actions that the director may determine.

C.40A:4-40.2 Reduction of reserve for uncollected taxes by deduction of receipts for sale of unpaid taxes, liens.

13. A municipality may reduce its reserve for uncollected taxes by deducting any or all receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, provided that such amount be calculated in the same manner as receipts for delinquent taxes are calculated in N.J.S.40A:4-29, and that prior to adoption of the budget, such sale is authorized by resolution of the governing body. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

C.40A:4-40.3 Fiscal analysis prior to sale of total property tax levy.

14. Prior to the award of a contract for the sale of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), or when a municipality chooses to reduce its reserve for uncollected taxes by deducting the receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, the chief financial officer or registered municipal accountant shall provide the governing body a fiscal analysis of the impact of the sale on the current budget and the projected budgets for the next two subsequent years. The Director of the Division of Local Government Services in the Department of Community Affairs may promulgate a standard form to be used for this purpose, which, if promulgated, shall include, but not be limited to, the amount of the reserve for uncollected taxes, receipts for delinquent taxes and the municipal tax rate. The analysis shall be a public record.

C.54:4-67.1 Accounts of unpaid properties deemed delinquent.

15. Notwithstanding the payment of any property taxes, assessments or municipal charges by the purchaser of the total property tax levy pursuant to subsection c. of section 17 of P.L.1997, c.99 (C.54:5-113.6), the accounts of any unpaid properties shall be deemed delinquent for purposes of the creation, assignment, sale, redemption, or foreclosure of tax lien certificates, or for the purpose of filing a tax appeal with the county tax board or the State tax court.

The municipality shall comply with the notice and redemption provisions relating to the creation of tax certificates as hereinafter provided, except that the municipality shall be required to issue, and the levy purchaser shall be required to accept, the tax lien certificates if the contract for the sale of the total property tax levy provides that tax lien certificates shall be issued as partial consideration for the payment of the total property tax levy purchase in connection with the sale of the total property tax levy. The purchaser of the total property tax levy shall be obligated to accept any and all liens or tax sale certificates related thereto which are included within the total property tax levy as to which the levy purchaser has advanced monies to the municipality. Upon the receipt of a duly issued tax sale certificate any tax lien purchaser shall have the right to purchase subsequent property tax delinquencies relating to those properties upon payment of the full amount of the principal and interest due.

C.54:5-113.5 Sale of total property tax levy by municipality.

16. a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality may, by resolution of the governing body, agree to sell its total property tax levy, which may include the sale of any subsequently created property tax lien certificates relating to delinquent properties, to a third party at a public sale. If the municipality decides to sell its total property tax levy, the sale shall be either by public sale with sealed bids or by public auction, to the highest responsible bidder, subject to the terms and conditions of law and the bid specifications. The sale shall be held after a copy of the public notice of sale stating the manner of submitting and method of receiving the bids and the time and place of sale has been published in a legal newspaper circulating within the municipality at least 14 days in advance of the date fixed for receiving bids.

b. A municipality, by resolution, may determine to conclude its sale of the total property tax levy in the final month of its fiscal year provided that all statutory notice requirements are followed.

C.54:5-113.6 Terms, conditions of bid specifications.

17. Bid specifications for a contract for the sale of the total property tax levy shall be subject to the following minimum terms and conditions:

a. The municipality shall have the right to set a minimum bid price, expressed in dollars, percent of levy, or both, which may include a premium over the total property tax levy amount or a discount from the total property tax levy amount. The municipality shall reserve the right to reject any and all bids if, in the discretion of the municipality, it determines that the bid sale price is inadequate.

b. The municipality shall require the successful bidder to secure its payment obligation with either an irrevocable letter of credit or a bond from a surety or insurance company, the form and sufficiency of which is acceptable to and approved by the municipality, but which initially shall not be less than 105% of the amount of the uncollected taxes levied and payable as of the last day of the prior year or 105% of the amount actually paid by the levy purchaser in the prior year for taxes levied and payable for that year, whichever is greater, or, in the case of a levy sale concluded in the final month of the fiscal year, an amount equal to 105% of the actual tax collection delinquency for the prior fiscal year. The amount of the letter of credit or surety bond may be reduced proportionately throughout the year as the total property tax levy purchaser satisfies its payment obligation. The irrevocable letter of credit or the bond shall be provided prior to the sale of the total property tax levy becoming effective.

c. The purchaser shall pay for the total property tax levy bid amount in quarterly installments or, if there is to be one annual installment, after the last fiscal year quarterly delinquent date as indicated in the contract for the sale of the total property tax levy. These installments shall be due no earlier than 10 days, and no later than 30 days after the appropriate quarterly tax due

date. Whether there is one annual installment payment prior to the end of the fiscal year as indicated in the contract for the sale of the total property tax levy or quarterly installments, in either event, the installment shall be due upon the presentation of a certification from the tax collector stating; (1) the total amount of the total property tax levy for the quarter or year, as appropriate, (2) the amount of property taxes that are delinquent for the quarter or year, as appropriate, (3) a list of the amount of the delinquent property taxes for each property, which property shall be identified by block, lot and the name of the owner, and (4) the amount due and payable by the property tax levy purchaser pursuant to its contract with the municipality. The tax collector shall deliver the certification to the purchaser within five business days following 10 days after the quarterly tax due date. At the time of the quarterly or annual payment, as appropriate, the purchaser shall receive as a credit against the payment due, an amount equal to the taxes paid to the tax collector. If, within five business days of receipt of the certification from the tax collector, payment is not made by the total property tax levy purchaser in accordance with the contract, the municipality may charge a penalty not to exceed three times the maximum delinquent rate of interest permitted by statute until such time as the required payment is made in full. The penalty interest rate shall be set forth in the bid specifications and contract.

d. Subject to the payment of quarterly delinquent property taxes or the fiscal year delinquency by the total property tax levy purchaser as specified in the contract for the sale of the total property tax levy, the levy purchaser shall be paid, upon collection by the municipal tax collector, all delinquent taxes and other municipal charges that are owing, due and payable, subject to any contract provision pursuant to subsection h. of this section, including interest and penalties, if applicable. The municipal tax collector or chief financial officer shall remit such funds as authorized by the governing body to the levy purchaser only upon collection of the outstanding tax delinquencies, municipal liens or charges, or certificate redemptions, including interest or penalties that are due and paid to the tax collector. Such funds shall be remitted by the tax collector or chief financial officer to the total tax levy purchaser within 30 days of collection by the tax collector unless a different schedule is specified in the contract for the sale of the total property tax levy. Upon issuance of an appropriate tax sale certificate the total property tax levy purchaser may also pay subsequent taxes and other municipal liens and charges, subject to any limitations contained in the total property tax levy sale bid specifications and contract. The total property tax levy purchaser may file an action to foreclose the right to redeem the tax sale certificate, in personam, upon expiration of two years from the date of its issuance pursuant to R.S.54:5-86 et seq.

e. The collection and enforcement of taxes and the preparation of redemption statements and discharges of tax lien certificates shall remain the right and obligation of the municipal tax collector.

f. The purchaser shall provide reports as are requested by the municipality.

g. The purchaser of the total property tax levy may be obligated by the bid specifications and contract to pay all subsequent taxes, municipal liens or other municipal charges on each tax sale certificate acquired under the total property tax levy purchase until redemption or foreclosure of the tax sale certificate has been completed, whichever occurs first. The total property tax levy purchase contract may provide that failure to make such payments within each fiscal year shall result in the forfeiture of any such certificate and any amount due thereon and require the assignment of the certificate back to the municipality. The bid specifications and contract may include a sunset provision on provisions relating to the total property tax levy purchaser's right or obligation to pay subsequent taxes and other municipal liens and charges.

h. The bid specifications and contract may contain provisions relating to the resolution of tax appeals on properties for which the total property tax levy purchaser has acquired tax sale certificates from the municipality.

i. The bid specification and contract may permit the municipality to conduct a public tax sale and reimburse the total property tax levy purchaser from the proceeds of the tax sale.

j. In the event that a tax sale certificate is issued in connection with the sale of a total property tax levy, the account of the municipality with the total property tax levy purchaser shall be credited with the total face amount of the certificate as of the date of its issuance.

k. The bid specifications and contract may provide that the total property tax levy purchaser, at the closing of the levy sale, shall have the right, but not the obligation, to acquire by assignment all tax lien certificates held by the municipality, excluding those certificates relating to known or suspected sites of environmental contamination. This right of the purchaser may be exercised only if the purchaser's bid is equal to or greater than 98% of the combined dollar value of the total property tax levy and the full redemptive value of the municipal tax lien certificates so assigned.

C.54:5-113.7 Rules, regulations; biennial report to Governor, Legislature.

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

In addition, the Department of Community Affairs shall prepare biennially a written report on those municipalities that have entered into contracts for the sale of the total property tax levy and the results of those executed contracts on the municipality and the property taxpayers in the municipality. The report shall be submitted to the Governor and the Legislature, with the first report to be submitted within 48 months following the effective date of P.L.1997, c.99 (C.40A:40.1 et al.)

19. This act shall take effect immediately.

Approved May 12, 1997.