

# LEGISLATIVE FISCAL ESTIMATE TO

[First Reprint]  
**SENATE, No. 1456**

# STATE OF NEW JERSEY

DATED: JANUARY 3, 1997

Senate Bill No. 1456 (1R) of 1996 would provide municipalities with greater flexibility in conducting tax sales and would: expand taxpayers' right to notice of delinquent interest rates, clarify the calculation of amounts required to redeem tax sale certificates, and clarify other ambiguous sections of law concerning municipal liens. The Office of Legislative Services (OLS) is not able to estimate the Statewide potential dollar change in municipal receipts associated with any one of these various items due to the lack of specific relevant municipal data; overall, however, OLS believes these changes will on a Statewide basis minimally increase municipal receipts.

Sections 1 through 4 of the bill would amend various sections of the banking and property titles to clarify that municipal liens always have priority over mortgage and condominium liens. This provision would make those types of liens more marketable and thus increase lien sale receipts for municipalities to some unknown extent.

Section 5 of the bill would require that notice be given to property taxpayers, on or with the tax bill, of the municipality's delinquent interest rate and the end of the year penalty for nonpayment of taxes. This notice would minimally increase the municipal cost of printing tax bills because current law does not require that such a notice be given.

Sections 6 and 7 would establish that the property owner always has priority over holders of tax liens to pay the taxes owed on a property up to and including the payment date for each quarter when third party tax liens exist against the property. These amendments are intended to clarify that tax collectors are required to accept payment from the property owner, if payment is tendered up to and including the payment date for each quarter, when both the property owner and the holder of a tax sale certificate attempt to pay quarterly taxes due. Municipal government costs associated with the refunding of tax payments could increase slightly because of this provision.

Section 8, in part, would permit a municipality to establish either a single delinquency interest rate or a two-tier rate, as current law permits. Permitting municipalities to establish a single delinquency rate not to exceed 18 percent per annum and to charge interest for nonpayment of other municipal liens or charges could substantially increase municipal interest receipts. Section 8 also entitles a holder of an outstanding tax sale certificate to receive the amount of the 6 percent penalty as part of the amount required to redeem such

certificate of sale, provided the payment is made by the tax lien holder prior to the end of the fiscal year. It also entitles all other such holders to a pro rata share of the delinquency penalty upon redemption. These provisions will likely advance by one year municipal cash flow payments from these tax lien holders and thereby increase, at least in the first year, municipal tax payment receipts.

Section 9 of the bill would permit tax lien sales to occur after the 11th day of the 11th month of the fiscal year of the municipality. Currently, tax lien sales may not be held before April 1 of the fiscal year next following the fiscal year when the taxes became in arrears. This provision would permit municipalities to realize funds from a tax lien sale in the year in which the taxes are due, rather than waiting until April 1 or October 1 of the following fiscal year. Thus, municipalities could improve their tax collection levels to a higher percentage for one year and reduce their reserve for uncollected taxes in the following year's budget to a much lower level, without losing any of their revenues from delinquent interest and other penalties. This provision, for municipalities adopting it, will increase their cash receipts in the year of adoption.

Section 10 of the bill would provide that in lieu of any two of the required four publications of notice of a tax sale, the property owner may be provided notice by mail, the cost of which would be added to the cost of the sale, not to exceed \$25 for each notice. This provision would reduce by about one-half the current municipal cost of tax sale notices.

Section 11 of the bill would amend a notice provision to make the notice statement consistent with the requirements of R.S.54:5-86, recently amended by Section 41 of P.L.1996, c.62. This notice statement provision could alleviate future municipal confusion and thereby reduce future tax collection costs.

Section 12 of the bill would amend current law to provide a mechanism for the issuance of duplicate tax title certificates in the case of the destruction or loss of a tax title certificate issued by the municipality. The municipality would not be permitted to charge a fee in excess of \$100 for a duplicate certificate. Under current law a tax collector is not permitted to pay out redemption moneys until the tax title certificate is surrendered, so the holder of a lost or destroyed certificate has no remedy. Under current law these redemption moneys are held in trust by the municipality; thus, this provision will not increase municipal spendable receipts.

Section 13 of the bill would clarify that liens for assessments for benefits for municipal improvements are included as redeemable liens prior to the entry of judgment which cuts off such right. The section also clarifies that the right of redemption includes all lien holders, not just holders of prior liens. Clarifying that liens for assessments for benefits for municipal improvements are to be included as redeemable liens could increase municipal receipts from redemptions.

Sections 14 and 15 of the bill would remove an obsolete reference to a repealed section of law. Section 15 would also provide a mechanism for the escheat of unclaimed redemption moneys to the State when held by a municipality for five years after notice to the tax lien holder. Without State regulation to guide municipal officials, in the past these unclaimed redemption moneys have not escheated to the State, according to staff of the Department of Community Affairs (DCA). Under the bill, these moneys would, after five years from the date of notice to the holder, escheat to the State, and 75 percent of those moneys would be retained by the municipality holding the funds. The DCA staff have advised the OLS that such redemption sums only very infrequently go unclaimed, and, therefore, this change will produce only a minimal financial benefit for either municipalities or the State.

Section 16 of the bill specifies the calculation of the amount required to redeem a tax sale certificate based upon when the redemption occurs. When a tax sale certificate is issued within the 10-day period following the date of the tax sale, including the date of sale as the first day, then the amount required to redeem shall include all sums paid, together with interest and lawful expenses, by the certificate holder. This clarifying section has no financial impact on municipalities.

Section 17 of the bill clarifies that all sums for subsequent taxes, municipal liens and charges, and interest and costs actually paid are included in the amount required for redemption of a tax sale certificate that is not held by a municipality. This clarifying section will produce a minimal increase in redemption receipts for municipal governments.

Sections 18 through 23 of the bill require that all assignments of tax sale certificates be recorded at the county recording office and notice of the assignment be given to the appropriate municipal tax collector. If an assignment has not been recorded and notice has not been given to the tax collector, then the municipality will be held harmless for the payment of any redemption amounts to the holder of record of the tax sale certificate. This clarifying section will likely cause municipal governments to retain redemption payments otherwise payable to holders of municipal assignments who have failed to send to the tax collector a photocopy of the recorded tax sale certificate and, thus, if only for a temporary period until the proper document has been sent to the tax collector, increase municipal receipts.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.