

# SENATE, No. 3716

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 13, 2023

**Sponsored by:**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Co-Sponsored by:**

**Senators Diegnan and Stanfield**

**SYNOPSIS**

Concerns actions to foreclose right to redeem tax sale certificate under “tax sale law.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/12/2023)

1 AN ACT concerning actions to foreclose the right to redeem a tax  
2 sale certificate, amending R.S.54:5-86 and R.S.54:5-87, and  
3 supplementing chapter 5 of Title 54 of the Revised Statutes.

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

7  
8 1. R.S.54:5-86 is amended to read as follows:

9 54:5-86. a. When the municipality is the purchaser of a tax sale  
10 certificate, the municipality, or its assignee or transferee, may, at  
11 any time after the expiration of the term of six months from the date  
12 of sale, institute an action to foreclose the right of redemption.  
13 Except as provided in subsection a. of section 39 of P.L.1996, c.62  
14 (C.55:19-58) or as provided in subsection b. of this section, for all  
15 other persons that do not acquire a tax sale certificate from a  
16 municipality, an action to foreclose the right of redemption may be  
17 instituted at any time after the expiration of the term of two years  
18 from the date of sale of the tax sale certificate, subject to the  
19 requirements of section 3 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill). On instituting the  
21 action the right to redeem shall exist and continue until barred by  
22 the judgment of the Superior Court.

23 b. Any person holding a tax sale certificate on a property that  
24 meets the definition of abandoned property as set forth in  
25 P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale  
26 or thereafter, may at any time file an action with the Superior Court  
27 in the county wherein said municipality is situate, demanding that  
28 the right of redemption on such property be barred, pursuant to the  
29 "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax Foreclosure  
30 Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall  
31 include a certification by the public officer or the tax collector that  
32 the property is abandoned, provided pursuant to subsection d. of  
33 section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the  
34 certificate holder has unsuccessfully sought such certification from  
35 the public officer or tax collector, as the case may be, the certificate  
36 holder may submit to the court evidence that the property is  
37 abandoned, accompanied by a report and sworn statement by an  
38 individual holding appropriate licensure or professional  
39 qualifications, and shall provide a copy of those documents  
40 submitted to the court to the public officer and the tax collector. On  
41 the basis of this submission and any submission provided by the  
42 public officer or tax collector, as the case may be, the court shall  
43 determine whether the property meets the definition of abandoned  
44 property.

45 c. Any person holding a tax sale certificate on a property that  
46 meets the definition of abandoned property as set forth in  
47 P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale

**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 or thereafter, may enter upon that property at any time after written  
2 notice to the owner by certified mail return receipt requested in  
3 order to make repairs, or abate, remove or correct any condition  
4 harmful to the public health, safety and welfare, or any condition  
5 that is materially reducing the value of the property.

6 d. Any sums incurred or advanced pursuant to subsection c. of  
7 this section may be added to the unpaid balance due the holder of  
8 the tax sale certificate at the statutory interest rate for subsequent  
9 liens.

10 (cf: P.L.2015, c.16, s.1)

11  
12 2. R.S.54:5-87 is amended to read as follows:

13 54:5-87. The Superior Court, in an action to foreclose the right  
14 of redemption, may give full and complete relief under this chapter,  
15 in accordance with other statutory authority of the court, to bar the  
16 right of redemption and to foreclose all prior or subsequent  
17 alienations and descents of the lands and encumbrances thereon,  
18 except subsequent municipal liens, and to adjudge an absolute and  
19 indefeasible estate of inheritance in fee simple, to be vested in the  
20 purchaser, except as provided in, and subject to the provisions of,  
21 section 3 of P.L. , c. , (C. ) (pending before the Legislature  
22 as this bill). The judgment shall be final upon the defendants, their  
23 heirs, devisees and personal representatives, and their or any of  
24 their heirs, devisees, executors, administrators, grantees, assigns or  
25 successors in right, title or interest and no application shall be  
26 entertained to reopen the judgment after three months from the date  
27 thereof, and then only upon the grounds of lack of jurisdiction or  
28 fraud in the conduct of the suit. Such judgment and recording  
29 thereof shall not be deemed a sale, transfer, or conveyance of title  
30 or interest to the subject property under the provisions of the  
31 "Uniform Voidable Transactions Act," R.S.25:2-20 et seq.

32 In the event that any federal statute or regulation requires a  
33 judicial sale of the property in order to debar and foreclose a  
34 mortgage interest or any other lien held by the United States or any  
35 agency or instrumentality thereof, then the tax lien may be  
36 foreclosed in the same manner as a mortgage, and the final  
37 judgment shall provide for the issuance of a writ of execution to the  
38 sheriff of the county wherein the property is situated and the  
39 holding of a judicial sale as in the manner of the foreclosure of a  
40 mortgage.

41 (cf: P.L.2021, c.92, s.23)

42  
43 3. (New section) a. As used in this section:

44 "Defendant" means the owner of a parcel of real property for  
45 which a tax sale certificate was purchased and whose right of  
46 redemption was barred by a Superior Court judge after failing to  
47 repay the purchaser of the lien;

1       “Purchaser” means the person who purchased the tax sale  
2       certificate, paid the property taxes on the parcel of real property and  
3       filed the foreclosure action with a Court, and on whose behalf the  
4       right to redeem was barred by the Court.

b. Notwithstanding any provision of the “tax sale law,” R.S.54:5-1 et seq., or the “In Rem Tax Foreclosure Act,” P.L.1948, c.96 (C.54:5-104.29 et seq.), or any other law to the contrary, in the case of a parcel of real property that was the principal residence of the defendant in a foreclosure action filed in Superior Court pursuant to the provisions of R.S.54:5-86, upon the approval of the action to foreclose the right of redemption by the Court, the Court shall not adjudge an absolute and indefeasible estate of inheritance in fee simple to be vested in the purchaser. Instead, the Superior Court shall order that the sum of all property taxes paid by the purchaser, and interest due thereon, together with all costs related to the filing and adjudication of the action to foreclose the right of redemption that were paid by the purchaser, shall be the first priority lien on the property, paramount to any other lien, including any outstanding municipal lien, and shall order the sheriff of the county in which the parcel of real property is located to hold an Internet auction of the property, pursuant to any direction or guidance promulgated by the Administrative Office of the Courts or the Division of Local Government Services in the Department of Community Affairs. The order shall require that all costs of the auction incurred by the sheriff’s office shall be reimbursed from the proceeds of the auction.

Not later than 14 days following receipt by the sheriff of the moneys paid by the winning bidder at the auction, the sheriff shall make the following reimbursements from these moneys:

(1) To the purchaser, the sum of all property taxes paid, and interest due thereon, together with all costs related to the filing and adjudication of the action to foreclose the right of redemption;

(2) To the municipality in which the parcel of real property is located, the amount of any other municipal liens on the property together with interest due and owing thereon.

36 The sheriff shall retain for the sheriff's office sufficient funds to  
37 cover the costs of the auction, as required in this section

38        Once these payments have been made, the sheriff shall then  
39        forward any remaining moneys to the defendant.

41        4. This act shall take effect immediately.

44 STATEMENT

46 This bill would revise the process governing an action filed in  
47 Superior Court by the holder of a tax lien on certain parcels of real  
48 property when that person institutes an action to foreclose the right

1 of redemption of the tax lien. The right of redemption of a tax lien  
2 is the right of the owner of the property on which the tax lien exists  
3 to pay the holder of the tax lien and remove the lien from the  
4 property. Currently, under R.S.54:5-86, for persons who do not  
5 acquire a tax sale certificate from a municipality, an action to  
6 foreclose the right of redemption may be instituted at any time after  
7 the expiration of the term of two years from the date of sale of the  
8 tax sale certificate. Once an action to foreclose the right to redeem  
9 has been filed by a tax lien holder, the right to redeem continues to  
10 exist until barred by the judgment of the Superior Court. However,  
11 upon the action by the judge to bar the right of redemption and  
12 foreclose all liens other than municipal liens, the judge grants the  
13 holder of the tax sale certificate the title to the property, and that  
14 person becomes the owner of the property. At this point, the  
15 previous owner's rights to the property are permanently  
16 extinguished and the previous owner also loses any value,  
17 commonly referred to as equity, built up in the property through  
18 appreciation, or the payoff of a mortgage. For senior citizens, who  
19 oftentimes own their homes mortgage-free, or other property  
20 taxpayers who have paid down mortgages or whose property has  
21 considerably appreciated over time, the loss of the home in a tax  
22 lien foreclosure, and all of the equity in their home as well, could  
23 lead to homelessness or other hardship, as there are no funds with  
24 which to rent, or to purchase, another home.

25 The provisions of this bill are intended to address the unfairness  
26 of the loss of that equity to property owners when the property was  
27 used as its owners' permanent residence.

28 Under the bill, in the case of a parcel of real property that was  
29 the principal residence of the defendant in a tax lien foreclosure  
30 action filed in Superior Court, upon the approval of the action to  
31 foreclose the right of redemption by the Court, the Court would not  
32 grant the plaintiff (the tax lien holder) ownership of the property.  
33 Instead, the Court would order that all of the property taxes paid by  
34 the plaintiff, and interest due thereon, together with all costs related  
35 to the filing and adjudication of the action to foreclose the right of  
36 redemption that were paid by the plaintiff, would be the first  
37 priority lien on the property, paramount to any other lien, including  
38 any outstanding municipal lien, and would order the sheriff of the  
39 county in which the parcel of real property is located to hold an  
40 Internet auction of the property.

41 Once the Internet auction is over and the property has been sold,  
42 not later than 14 days following receipt by the sheriff of the moneys  
43 paid by the winning bidder at the auction, the sheriff must forward  
44 to the tax lien holder plaintiff the sum of all property taxes paid by  
45 the plaintiff, and interest due thereon, together with all costs related  
46 to the filing and adjudication of the action to foreclose the right of  
47 redemption. The sheriff must also pay to the municipality the  
48 amount of any other municipal liens on the property plus any

1 interest due and owing thereon, and retain for the sheriff's office  
2 sufficient funds to cover the costs of the auction.

3 Once those payments are made, the sheriff would then forward  
4 any remaining moneys collected from the winning bidder of the  
5 auction to the defendant. This allows the defendant to retain funds  
6 to either purchase, or rent, another home.