

# ASSEMBLY, No. 5302

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 16, 2023

**Sponsored by:**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Assemblyman ANTWAN L. MCCLELLAN**

**District 1 (Atlantic, Cape May and Cumberland)**

**SYNOPSIS**

Protects equity accrued by property owner in tax sale foreclosure.

**CURRENT VERSION OF TEXT**

As introduced.



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.

**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 c. Any person holding a tax sale certificate on a property that  
2 meets the definition of abandoned property as set forth in  
3 P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale  
4 or thereafter, may enter upon that property at any time after written  
5 notice to the owner by certified mail return receipt requested in  
6 order to make repairs, or abate, remove or correct any condition  
7 harmful to the public health, safety and welfare, or any condition  
8 that is materially reducing the value of the property.

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

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

14

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

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

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

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

45

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

47 "Defendant" means the owner of a parcel of real property for  
48 which a tax sale certificate was purchased and whose right of

1 redemption was barred by a Superior Court judge after failing to  
2 repay the purchaser of the lien.

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

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

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

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

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

38 d. The sheriff shall retain for the sheriff’s office sufficient  
39 funds to cover the costs of the auction, as required in this section.  
40 Once these payments have been made, the sheriff shall then forward  
41 any remaining moneys to the defendant.

42

43 4. This act shall take effect immediately.

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#### STATEMENT

47

48 This bill would revise the process governing an action filed in

1 Superior Court by the holder of a tax lien on certain parcels of real  
2 property when that person institutes an action to foreclose the right  
3 of redemption of the tax lien. The right of redemption of a tax lien  
4 is the right of the owner of the property on which the tax lien exists  
5 to pay the holder of the tax lien and remove the lien from the  
6 property.

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

27 The provisions of this bill are intended to address the unfairness  
28 of the loss of that equity to property owners who lose property in a  
29 tax lien foreclosure.

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

43 Once the Internet auction is over and the property has been sold,  
44 not later than 14 days following receipt by the sheriff of the moneys  
45 paid by the winning bidder at the auction, the sheriff must forward  
46 to the tax lien holder plaintiff the sum of all property taxes paid by  
47 the plaintiff, and interest due thereon, together with all costs related  
48 to the filing and adjudication of the action to foreclose the right of

1 redemption. The sheriff must also pay to the municipality the  
2 amount of any other municipal liens on the property plus any  
3 interest due and owing thereon, and retain for the sheriff's office  
4 sufficient funds to cover the costs of the auction.

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

9 Property equity is a valuable asset to property owners that should  
10 be retained by the property owners. It provides a property owner  
11 with opportunities to turn the equity to cash to purchase or rent  
12 another property, or to pay for items like living expenses in  
13 retirement, a child's college savings, or the health care of a loved  
14 one.

15 Equity theft happens when government uses the property to settle  
16 an unpaid tax debt and allow someone other than the property  
17 owner collect the excess revenue.

18 Like other assets, home equity should be protected from unjust  
19 government seizure. The State is part of a small number of states  
20 that do not provide property owners the remaining equity following  
21 a tax sale foreclosure.