

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 2/6/2004, by Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

35 ILCS 200/22-35

65 ILCS 5/11-31-1

from Ch. 24, par. 11-31-1

Amends the Illinois Municipal Code. Makes various changes authorizing a municipality to take certain remedial measures and to obtain a court order in relation to the publicly-owned property surrounding dangerous and unsafe or uncompleted or abandoned buildings and the property on which those buildings are located. Includes the beneficial owner of an Illinois land trust that is the record owner of such property among those against whom the municipality may obtain or enforce an action for reimbursement of the costs of remedial measures taken by the municipality. Provides that those costs include statutory interest from the date the costs are incurred or the work is completed, whichever is later. Makes various changes concerning the collection and accrual of interest on liens for the costs and expenses of remedial action by the municipality and the process by which the municipality may obtain a court order authorizing the remedial action and requiring that certain parties reimburse the municipality for the costs and expenses of taking that action. Amends the Property Tax Code. Provides that all liens for the costs and expenses of the remedial action are reimbursable municipal advancements and that such liens that are not paid or waived render a tax deed void in a tax proceeding. Makes other changes.

LRB093 20129 MKM 45874 b

1 AN ACT concerning municipalities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Property Tax Code is amended by changing
5 Section 22-35 as follows:

6 (35 ILCS 200/22-35)

7 Sec. 22-35. Reimbursement of municipality before issuance
8 of tax deed. Except in any proceeding in which the tax
9 purchaser is a county acting as a trustee for taxing districts
10 as provided in Section 21-90, an order for the issuance of a
11 tax deed under this Code shall not be entered affecting the
12 title to or interest in any property in which a city, village
13 or incorporated town has made advancements of public funds ~~an~~
14 ~~interest~~ under the police and welfare power ~~by advancements~~
15 ~~made from public funds~~, until the purchaser or assignee makes
16 reimbursement to the city, village or incorporated town of the
17 amounts ~~money~~ so advanced or the city, village, or town waives
18 its recorded or unrecorded lien on the property for the amounts
19 ~~money~~ so advanced, or waives reimbursements under this
20 provision. Municipal advancements are all costs, fees,
21 expenses, expenditures, internal transfers, interest, and
22 other charges and applications of public funds incurred by a
23 municipality for activities that are authorized by a State
24 statute or conducted under the police and welfare powers of a
25 municipality under the Illinois Municipal Code. However, In
26 lieu of reimbursement or waiver, the purchaser or his or her
27 assignee may make application for and the court shall order
28 that the tax purchase be set aside as a sale in error. A filing
29 or appearance fee shall not be required of a city, village or
30 incorporated town seeking to enforce its right to reimbursement
31 ~~claim~~ under this Section if the municipality chooses to appear
32 in a tax deed proceeding. Any tax deed recorded without the

1 reimbursement or waiver required under this Section is a void
2 deed in a tax deed proceeding.

3 (Source: P.A. 93-490, eff. 8-8-03.)

4 Section 10. The Illinois Municipal Code is amended by
5 changing Section 11-31-1 as follows:

6 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

7 Sec. 11-31-1. Demolition, repair, enclosure, or
8 remediation.

9 (a) The corporate authorities of each municipality may
10 demolish, repair, or enclose or cause the demolition, repair,
11 or enclosure of dangerous and unsafe buildings or uncompleted
12 or ~~and~~ abandoned buildings or enclose as much of the publicly
13 owned property surrounding the buildings as is necessary to
14 protect the public health, safety, and welfare within the
15 territory of the municipality and may remove or cause the
16 removal of garbage, debris, and other hazardous, noxious, or
17 unhealthy substances or materials from those buildings and the
18 property on which they are located, or from as much of the
19 publicly owned property surrounding the buildings as is
20 necessary to protect the public health, safety, and welfare. In
21 any county having adopted by referendum or otherwise a county
22 health department as provided by Division 5-25 of the Counties
23 Code or its predecessor, the county board of that county may
24 exercise those powers with regard to dangerous and unsafe
25 buildings or uncompleted or ~~and~~ abandoned buildings and the
26 property on which they are located, or as much of the publicly
27 owned property surrounding the buildings as is necessary to
28 protect the public health, safety, and welfare within the
29 territory of any city, village, or incorporated town having
30 less than 50,000 population.

31 The corporate authorities shall apply to the circuit court
32 of the county in which the building is located (i) for an order
33 authorizing action to be taken with respect to a building and
34 the property on which it is located, or as much of the publicly

1 owned property surrounding the building as is necessary to
2 protect the public health, safety, and welfare, if the owner or
3 owners of the building, including the lien holders of record
4 and the beneficial owner of an Illinois land trust that is the
5 record owner, after at least 15 days' written notice by mail or
6 service of summons so to do, have failed to put the building in
7 a safe condition or to demolish it or (ii) for an order
8 requiring the owner or owners of record or the beneficial owner
9 of an Illinois land trust that is the record owner to demolish,
10 repair, or enclose the building or to remove garbage, debris,
11 and other hazardous, noxious, or unhealthy substances or
12 materials from the building and the property on which it is
13 located. It is not a defense to the cause of action that the
14 building is boarded up or otherwise enclosed, although the
15 court may order the defendant to have the building boarded up
16 or otherwise enclosed. Where, upon diligent search, the
17 identity or whereabouts of the owner or owners of the building,
18 including the lien holders of record and the beneficial owner
19 of an Illinois land trust that is the record owner, is not
20 ascertainable, notice mailed to or service of summons upon the
21 person or persons in whose name the real estate was last
22 assessed is sufficient notice under this subsection ~~Section~~.

23 The hearing upon the application to the circuit court shall
24 be expedited by the court and shall be given precedence over
25 all other suits. Any person entitled to bring an action under
26 subsection (b) shall have the right to intervene in an action
27 brought under this subsection ~~Section~~.

28 The cost of the demolition, repair, enclosure, or removal
29 incurred by the municipality, by an intervenor, or by a lien
30 holder of record, including court costs, attorney's fees,
31 statutory interest from the date the costs are incurred or the
32 work is completed, whichever is later, and other costs related
33 to the enforcement of this subsection ~~Section~~, is recoverable
34 from the owner or owners and the beneficial owner of an
35 Illinois land trust that is the record owner of the real
36 estate, or from the previous owner and current owner, or both

1 if the property was transferred during the 15 day notice period
2 and is a lien on the real estate. ~~+~~ The lien is superior to all
3 prior existing liens and encumbrances, except taxes, if, within
4 180 days after the cost are incurred or the work is completed,
5 whichever is later, repair, demolition, enclosure, or removal,
6 the municipality, the lien holder of record, or the intervenor
7 who incurred the cost and expense ~~shall~~ file a notice of lien
8 for the cost and expense incurred in the office of the recorder
9 in the county in which the real estate is located. All liens
10 arising under this subsection are reimbursable municipal
11 advancements under Section 25-35 of the Property Tax Code ~~or in~~
12 ~~the office of the registrar of titles of the county if the real~~
13 ~~estate affected is registered under the Registered Titles~~
14 ~~(Torrens) Act.~~

15 The recorded notice must consist of a sworn statement
16 setting out (1) a description of the real estate sufficient for
17 its identification, (2) the amount of money representing the
18 cost and expense incurred, together with the interest rate
19 payable thereon, and (3) the date or dates when the cost and
20 expense was incurred or the work was completed by the
21 municipality, the lien holder of record, or the intervenor.
22 Upon payment of the lien, including the payment of interest as
23 required under this subsection, ~~cost and expense by the owner~~
24 ~~of or persons interested in the property~~ after the notice of
25 lien has been filed, the lien shall be released by the
26 municipality, the person in whose name the lien has been filed,
27 or the assignee of the lien, and the release may be filed of
28 record ~~as in the case of filing notice of lien.~~ Unless the lien
29 is enforced under subsection (c), the lien may be enforced by
30 foreclosure proceedings as in the case of mortgage foreclosures
31 under Article XV of the Code of Civil Procedure ~~or mechanics'~~
32 ~~lien foreclosures.~~ An action to foreclose a lien arising under
33 this subsection ~~this lien~~ may be commenced at any time after
34 the date of filing of the notice of lien. The costs of
35 foreclosure incurred by the municipality, including court
36 costs, reasonable attorney's fees, advances to preserve the

1 property, and other costs related to the enforcement of this
2 subsection, plus statutory interest, from the date the costs
3 were incurred or the work was completed, whichever is later,
4 are a lien on the real estate and are recoverable by the
5 municipality from the owner or owners, the beneficial owner of
6 an Illinois land trust that is the record owner, and subsequent
7 owners of the real estate and from any persons otherwise
8 obligated to satisfy the liens arising under this subsection.

9 All liens arising under this subsection (a) shall be
10 assignable. After assignment, the lien shall continue to bear
11 statutory interest as set forth in this subsection, but shall
12 cease to be a reimbursable municipal advancement under Section
13 22-35 of the Property Tax Code. The assignee of the lien shall
14 have the same power to enforce the lien as the assigning party,
15 except that only a municipality ~~the lien~~ may enforce the lien
16 ~~not be enforced~~ under subsection (c).

17 Statutory interest on the statutory liens arising under
18 this subsection shall be as set forth in Article II of the Code
19 of Civil Procedure concerning judgment liens. Interest
20 payable by the holder of a certificate of purchase of
21 delinquent taxes shall accrue from the later of (i) the date
22 the costs and expenses are incurred or the work is completed,
23 whichever is later, or (ii) the date of the tax sale
24 represented by the certificate of purchase.

25 If the appropriate official of any municipality determines
26 that any dangerous and unsafe building or uncompleted ~~or~~ and
27 abandoned building within its territory fulfills the
28 requirements for an action by the municipality under the
29 Abandoned Housing Rehabilitation Act, the municipality may
30 petition under that Act in a proceeding brought under this
31 subsection.

32 (b) Any owner or tenant of real property within 1200 feet
33 in any direction of any dangerous or unsafe building located
34 within the territory of a municipality with a population of
35 500,000 or more may file with the appropriate municipal
36 authority a request that the municipality apply to the circuit

1 court of the county in which the building is located for an
2 order permitting the demolition, removal of garbage, debris,
3 and other noxious or unhealthy substances and materials from,
4 or repair or enclosure of the building and the property on
5 which it is located in the manner prescribed in subsection (a)
6 of this Section. If the municipality fails to institute an
7 action in circuit court within 90 days after the filing of the
8 request, the owner or tenant of real property within 1200 feet
9 in any direction of the building may institute an action in
10 circuit court seeking an order compelling the owner or owners
11 of record and the beneficial owner of an Illinois land trust
12 that is the record owner to demolish, remove garbage, debris,
13 and other noxious or unhealthy substances and materials from,
14 repair or enclose or to cause to be demolished, have garbage,
15 debris, and other noxious or unhealthy substances and materials
16 removed from, repaired, or enclosed the building in question
17 and the property on which it is located. A private owner or
18 tenant who institutes an action under the preceding sentence
19 shall not be required to pay any fee to the clerk of the
20 circuit court. The cost of repair, removal, demolition, or
21 enclosure shall be borne by the owner or owners of record and
22 the beneficial owners of an Illinois land trust that is the
23 record owner of the real estate building. In the event the
24 owner or owners of record and the beneficial owner of an
25 Illinois land trust that is the record owner fail to perform
26 the court-ordered remedial actions ~~demolish, remove garbage,~~
27 ~~debris, and other noxious or unhealthy substances and materials~~
28 ~~from, repair, or enclose the building~~ within 90 days of the
29 date the court entered its order, the owner or tenant who
30 instituted the action may request that the court join the
31 municipality as a party to the action. The court may authorize
32 ~~order~~ the municipality to demolish, remove materials from,
33 repair, or enclose the building and the property on which it is
34 located or as much of the publicly-owned property surrounding
35 the building as is necessary to protect the public health,
36 safety, and welfare, or cause that action to be taken upon the

1 request of any owner or tenant who instituted the action or
2 upon the municipality's request. The municipality may file, and
3 the court may approve, a plan for rehabilitating the building
4 in question. A court order authorizing the municipality to
5 demolish, remove materials from, repair, or enclose a building
6 and the property on which it is located or as much of the
7 publicly-owned property surrounding the building as is
8 necessary to protect the public health, safety and welfare, or
9 cause that action to be taken, shall not preclude the court
10 from adjudging the owner or owners of record and the beneficial
11 owners of an Illinois land trust that is the record owner of
12 the property building in contempt of court due to the failure
13 to comply with the order requiring them to perform the
14 court-ordered remedial actions ~~to demolish, remove garbage,~~
15 ~~debris, and other noxious or unhealthy substances and materials~~
16 ~~from, repair, or enclose the building.~~

17 If a municipality or a person or persons other than the
18 owner or owners of record and the beneficial owners of an
19 Illinois land trust that is the record owner pay the cost of
20 performing the court ordered remedial actions, ~~demolition,~~
21 ~~removal of garbage, debris, and other noxious or unhealthy~~
22 ~~substances and materials, repair, or enclosure pursuant to a~~
23 ~~court order,~~ the cost, including court costs, attorney's fees,
24 statutory interest from the date the costs are incurred or the
25 work is completed, whichever is later, and other costs related
26 to the enforcement of this subsection, is recoverable from the
27 owner or owners of the real estate and the beneficial owner of
28 an Illinois land trust that is the record owner, and is a lien
29 on the real estate. † The lien is superior to all prior
30 existing liens and encumbrances, except taxes, if, within 180
31 days after performing the court-ordered remedial actions ~~the~~
32 ~~repair, removal, demolition, or enclosure,~~ the municipality or
33 the person or persons who paid the costs of performing the
34 court-ordered remedial actions ~~demolition, removal, repair, or~~
35 ~~enclosure shall~~ file a notice of lien of the cost and expense
36 incurred in the office of the recorder in the county in which

1 the real estate is located ~~or in the office of the registrar of~~
2 ~~the county if the real estate affected is registered under the~~
3 ~~Registered Titles (Torrens) Act.~~ The recorded notice shall be
4 in a form as is provided in subsection (a). An owner or tenant
5 who institutes an action in circuit court seeking an order to
6 compel the owner or owners of record and the beneficial owners
7 of an Illinois land trust that is the record owner to demolish,
8 remove materials from, repair, or enclose any dangerous or
9 unsafe building and the property in which it is located, or to
10 cause that action to be taken under this subsection may recover
11 court costs and reasonable attorney's fees for instituting the
12 action from the owner or owners of record of the building and
13 the beneficial owner of Illinois land trust that is the record
14 owner. Those costs and fees are a lien on the real estate as
15 set forth in this subsection. All liens arising under this
16 subsection for costs and expenses incurred by a municipality
17 are reimbursable municipal advancements under Section 22-35 of
18 the Property Tax Code. Upon payment of the lien costs and
19 expenses by the owner or a person interested in the property
20 after the notice of lien has been filed, including the payment
21 of interest as required under this subsection, the lien shall
22 be released by the municipality or the person in whose name the
23 lien has been filed or his or her assignee, and the release may
24 be filed of record ~~as in the case of filing a notice of lien.~~
25 Unless the lien is enforced by a municipality under subsection
26 (c), the lien may be enforced by foreclosure proceedings as in
27 the case of mortgage foreclosures under Article XV of the Code
28 of Civil Procedure ~~or mechanics' lien foreclosures.~~ An action
29 to foreclose ~~the~~ this lien arising under this subsection may be
30 commenced at any time after the date of filing of the notice of
31 lien. The costs of foreclosure incurred by the municipality or
32 the owner or tenant who instituted the proceeding under this
33 subsection, including court costs, reasonable attorneys' fees,
34 advances to preserve the property, and other costs related to
35 the enforcement of this subsection, plus statutory interest
36 from the date the costs were incurred or the work was

1 completed, whichever is later, are a lien on the real estate
2 and are recoverable by the municipality from the owner or
3 owners, the beneficial owner of an Illinois land trust that is
4 the record owner, and subsequent owners of the real estate.

5 All liens arising under the terms of this subsection (b)
6 shall be assignable. After assignment, the lien shall continue
7 to bear statutory interest as set forth in this subsection, but
8 shall cease to be a reimbursable municipal advancement under
9 Section 22-35 of the Property Tax Code. The assignee of the
10 lien shall have the same power to enforce the lien as the
11 assigning party, except that only a municipality ~~the lien~~ may
12 enforce the lien ~~not be enforced~~ under subsection (c).

13 Statutory interest on the statutory liens arising under
14 this subsection (b) shall be as set forth in Article II of the
15 Code of Civil Procedure concerning judgement liens. Interest
16 payable by the holder of a certificate of purchase of
17 delinquent taxes shall accrue from the later of (i) the date
18 the costs and expenses are incurred or the is completed,
19 whichever is later, or (ii) the date of the tax sale
20 represented by the certificate of purchase.

21 (c) In any case where a municipality has obtained a lien
22 under subsection (a), (b), or (f), the municipality may enforce
23 the lien under this subsection (c) in the same proceeding in
24 which the lien is authorized.

25 A municipality desiring to enforce a lien under this
26 subsection (c) shall petition the court to retain jurisdiction
27 for foreclosure proceedings under this subsection. Notice of
28 the petition shall be served, by certified or registered mail,
29 on all persons who were named as defendants or appeared in the
30 case ~~served notice~~ under subsection (a), (b), or (f). The court
31 shall conduct a hearing on the petition not less than 15 days
32 after the notice required under this subsection is served. If
33 the court determines that the requirements of this subsection
34 (c) have been satisfied, it shall grant the petition and retain
35 jurisdiction over the matter until the foreclosure proceeding
36 is completed. The costs of foreclosure incurred by the

1 municipality, including court costs, reasonable attorneys'
2 fees, advances to preserve the property, and other costs
3 related to the enforcement of this subsection, plus statutory
4 interest, as set forth in subsections (a), (b), and (f), are a
5 lien on the real estate and are recoverable by the municipality
6 from the owner or owners, the beneficial owner of an Illinois
7 land trust that is the record owner, and subsequent owners of
8 the real estate and from any persons otherwise obligated to
9 satisfy the liens arising under subsections (a), (b), or (f).
10 If the court denies the petition, the municipality may enforce
11 the lien in a separate foreclosure action as provided in
12 subsection (a), (b), or (f).

13 All persons designated in Section 15-1501 of the Code of
14 Civil Procedure as necessary parties in a mortgage foreclosure
15 action shall be joined as parties before issuance of an order
16 of foreclosure. Persons designated in Section 15-1501 of the
17 Code of Civil Procedure as permissible parties may also be
18 joined as parties in the action.

19 The provisions of Article XV of the Code of Civil Procedure
20 applicable to mortgage foreclosures shall apply to the
21 foreclosure of a lien under this subsection (c), except to the
22 extent that those provisions are inconsistent with this
23 subsection. For purposes of foreclosures of liens under this
24 subsection, however, the redemption period described in
25 subsection (b) of Section 15-1603 of the Code of Civil
26 Procedure shall end 60 days after the date of entry of the
27 order of foreclosure.

28 (d) In addition to any other remedy provided by law, the
29 corporate authorities of any municipality may file a complaint
30 to petition the circuit court to have property declared
31 abandoned under this subsection (d) or may file a petition
32 under this subsection in any proceeding brought under
33 subsection (a) or (b) if:

34 (1) Property taxes have not been paid ~~the property has~~
35 ~~been tax delinquent~~ for 2 or more consecutive years, the
36 property is subject to one or more certificates of purchase

1 of delinquent property taxes, ~~or~~ bills for water service
2 for the property have been outstanding, or there has been
3 no active water service to the property for 2 or more
4 consecutive years;

5 (2) the property is unoccupied by persons legally in
6 possession; and

7 (3) the property contains a dangerous or unsafe
8 building.

9 The municipality shall make the petition of abandonment a
10 matter of public record by filing a lis pendens notice in the
11 office of the recorder in the county in which the property is
12 located.

13 If a municipality files a complaint under this subsection,
14 all persons having an interest of record in the property,
15 ~~including tax purchasers~~ and the beneficial owners of any
16 Illinois land trust having title to the property, shall be
17 named as defendants in the petition and shall be served with
18 process.

19 If a municipality files a petition of abandonment in a
20 proceeding under subsection (a) or (b), notice of the petition
21 shall be served by certified or registered mail on all persons
22 who were served with a summons and a copy of the complaint
23 under subsection (a) or (b). The holders of certificates of
24 purchase of delinquent taxes at the time the petition of
25 abandonment is filed under this subsection or subsections (a)
26 or (b) shall be named as defendants in the petition and shall
27 be served with process, pursuant to Section 21-410 of the
28 Property Tax Code. In addition, service shall be had under
29 Section 2-206 of the Code of Civil Procedure as in other cases
30 affecting property.

31 ~~The municipality, however, may proceed under this~~
32 ~~subsection in a proceeding brought under subsection (a) or (b).~~
33 ~~Notice of the petition shall be served by certified or~~
34 ~~registered mail on all persons who were served notice under~~
35 ~~subsection (a) or (b).~~

36 If the municipality proves that the conditions described in

1 this subsection exist and the owner of record of the property
2 or the beneficial owner of an Illinois land trust that is the
3 record owner does not enter an appearance in the action, ~~or, if~~
4 ~~title to the property is held by an Illinois land trust, if~~
5 ~~neither the owner of record nor the owner of the beneficial~~
6 ~~interest of the trust enters an appearance,~~ the court shall
7 declare the property abandoned.

8 If that determination is made, notice shall be sent by
9 certified or registered mail to all persons who were served
10 with the abandonment petition ~~having an interest of record in~~
11 ~~the property, including tax purchasers and beneficial owners of~~
12 ~~any Illinois land trust having title to the property,~~ stating
13 that title to the property will be transferred to the
14 municipality unless, within 30 days of the notice, the owner of
15 record, the beneficial owner of an Illinois land trust that is
16 the record owner, or a receiver appointed under Section 21-410
17 of the Property Tax Code enters an appearance in the action, or
18 unless any other person having an interest in the property
19 files with the court a request to demolish the dangerous or
20 unsafe building or to put the building in safe condition.

21 If the owner of record, the beneficial owner of an Illinois
22 land trust that is the record owner, or a receiver appointed
23 under Section 21-410 of the Property Tax Code enters an
24 appearance in the action within the 30 day period, the court
25 shall vacate its order declaring the property abandoned and ~~:-~~
26 ~~In that case,~~ the municipality may amend its complaint in order
27 to initiate proceedings under subsection (a) or may continue
28 the pending case filed under subsection (a).

29 If a request to demolish or repair the building is filed
30 within the 30 day period, the court shall grant permission to
31 the requesting party to demolish the building within 30 days or
32 to restore the building to safe condition within 60 days after
33 the request is granted. ~~An extension of that period for up to~~
34 ~~60 additional days may be given for good cause.~~ If more than
35 one person with an interest in the property files a timely
36 request, preference shall be given to the person with the lien

1 or other interest of the highest priority.

2 If the requesting party proves to the court that the
3 building has been demolished or put in a safe condition within
4 the period of time granted by the court, the court shall issue
5 a quitclaim judicial deed for the property to the requesting
6 party, conveying only the interest of the owner of record and
7 the beneficial interest of an Illinois land trust that is the
8 record owner, upon proof of payment to the municipality of all
9 costs incurred by the municipality in connection with the
10 action, plus statutory interest as set forth in this subsection
11 including but not limited to court costs, attorney's fees,
12 administrative costs, the costs, if any, associated with the
13 building enclosure or removal, and receiver's certificates.
14 The interest in the property ~~is~~ conveyed by the quitclaim deed
15 shall be subject to all liens and encumbrances on the property.
16 ~~If In addition, if the interest is conveyed to~~ a person holding
17 a certificate of purchase of delinquent taxes for the property
18 under the Property Tax Code receives a judicial quitclaim deed
19 under this subsection, the conveyance shall be subject to the
20 rights of redemption of all persons entitled to redeem under
21 that Act, including the original owner of record.

22 If no person designated in this subsection ~~with an interest~~
23 ~~in the property~~ files a timely request or if the requesting
24 party fails to demolish the building or put the building in
25 safe condition within the time specified by the court, the
26 municipality may petition the court to issue a judicial deed
27 for the property to the municipality. A conveyance by judicial
28 deed to the municipality shall operate to extinguish all
29 existing ownership interests in, liens on, and other interest
30 in the property, including tax liens, and shall extinguish the
31 rights and interests of any and all holders of a bona fide
32 certificate of purchase of the property for delinquent taxes.
33 Any such bona fide certificate of purchase holder shall be
34 entitled to a sale in error as prescribed under Section 21-310
35 of the Property Tax Code.

36 Statutory interest on the recovery of the costs and

1 expenses allowed under this subsection shall be set forth in
2 Article II of the Code of Civil Procedure concerning judgement
3 liens.

4 (e) Each municipality may use the provisions of this
5 subsection to expedite the removal of certain buildings that
6 are a continuing hazard to the community in which they are
7 located.

8 If a residential or commercial building is 3 stories or
9 less in height as defined by the municipality's building code,
10 and the corporate official designated to be in charge of
11 enforcing the municipality's building code determines that the
12 building is open and vacant and an immediate and continuing
13 hazard to the community in which the building is located, then
14 the official shall be authorized to post a notice not less than
15 2 feet by 2 feet in size on the front of the building. The
16 notice shall be dated as of the date of the posting and shall
17 state that unless the building is demolished, repaired, or
18 enclosed, and unless any garbage, debris, and other hazardous,
19 noxious, or unhealthy substances or materials are removed so
20 that an immediate and continuing hazard to the community no
21 longer exists, then the building may be demolished, repaired,
22 or enclosed, or any garbage, debris, and other hazardous,
23 noxious, or unhealthy substances or materials may be removed,
24 by the municipality.

25 Not later than 30 days following the posting of the notice,
26 the municipality shall do all of the following:

27 (1) Cause to be sent, by certified mail, return receipt
28 requested, a Notice to Remediate to all owners of record of
29 the property, the beneficial owners of any Illinois land
30 trust having title to the property, and all lienholders of
31 record in the property, stating the intent of the
32 municipality to demolish, repair, or enclose the building
33 or remove any garbage, debris, or other hazardous, noxious,
34 or unhealthy substances or materials if that action is not
35 taken by the owner or owners.

36 (2) Cause to be published, in a newspaper published or

1 circulated in the municipality where the building is
2 located, a notice setting forth (i) the permanent tax index
3 number and the address of the building, (ii) a statement
4 that the property is open and vacant and constitutes an
5 immediate and continuing hazard to the community, and (iii)
6 a statement that the municipality intends to demolish,
7 repair, or enclose the building or remove any garbage,
8 debris, or other hazardous, noxious, or unhealthy
9 substances or materials if the owner or owners or
10 lienholders of record fail to do so. This notice shall be
11 published for 3 consecutive days.

12 (3) Cause to be recorded the Notice to Remediate mailed
13 under paragraph (1) in the office of the recorder in the
14 county in which the real estate is located ~~or in the office~~
15 ~~of the registrar of titles of the county if the real estate~~
16 ~~is registered under the Registered Title (Torrens) Act.~~

17 Any person or persons with a current legal or equitable
18 interest in the property objecting to the proposed actions of
19 the corporate authorities may file his or her objection in an
20 appropriate form in a court of competent jurisdiction.

21 If the building is not demolished, repaired, or enclosed,
22 or the garbage, debris, or other hazardous, noxious, or
23 unhealthy substances or materials are not removed, within 30
24 days of mailing the notice to the owners of record, the
25 beneficial owners of any Illinois land trust having title to
26 the property, and all lienholders of record in the property, or
27 within 30 days of the last day of publication of the notice,
28 whichever is later, the corporate authorities shall have the
29 power to demolish, repair, or enclose the building or to remove
30 any garbage, debris, or other hazardous, noxious, or unhealthy
31 substances or materials.

32 The municipality may proceed to demolish, repair, or
33 enclose a building or remove any garbage, debris, or other
34 hazardous, noxious, or unhealthy substances or materials under
35 this subsection within a 120-day period following the date of
36 the mailing of the notice if the appropriate official

1 determines that the demolition, repair, enclosure, or removal
2 of any garbage, debris, or other hazardous, noxious, or
3 unhealthy substances or materials is necessary to remedy the
4 immediate and continuing hazard. If, however, before the
5 municipality proceeds with any of the actions authorized by
6 this subsection, any person with a legal or equitable interest
7 in the property has sought a hearing under this subsection
8 before a court and has served a copy of the complaint on the
9 chief executive officer of the municipality, then the
10 municipality shall not proceed with the demolition, repair,
11 enclosure, or removal of garbage, debris, or other substances
12 until the court determines that that action is necessary to
13 remedy the hazard and issues an order authorizing the
14 municipality to do so. If the court dismisses the action for
15 want of prosecution, the municipality must send the objector a
16 copy of the dismissal order and a letter stating that the
17 demolition, repair, enclosure, or removal of garbage, debris,
18 or other substances will proceed unless, within 30 days after
19 the copy of the order and the letter are mailed, the objector
20 moves to vacate the dismissal and serves a copy of the motion
21 on the chief executive officer of the municipality.
22 Notwithstanding any other law to the contrary, if the objector
23 does not file a motion and give the required notice, if the
24 motion is denied by the court, or if the action is again
25 dismissed for want of prosecution, then the dismissal is with
26 prejudice and the demolition, repair, enclosure, or removal may
27 proceed forthwith.

28 Following the demolition, repair, or enclosure of a
29 building, or the removal of garbage, debris, or other
30 hazardous, noxious, or unhealthy substances or materials under
31 this subsection, the municipality may file a notice of lien
32 against the real estate for the cost of the demolition, repair,
33 enclosure, or removal within 180 days after the repair,
34 demolition, enclosure, or removal occurred, or the work was
35 completed, whichever is later, for the cost and expense
36 incurred, in the office of the recorder in the county in which

1 the real estate is located. ~~or in the office of the registrar~~
2 ~~of titles of the county if the real estate affected is~~
3 ~~registered under the Registered Titles (Torrens) Act;~~ This lien
4 has priority over the interests of those parties named in the
5 Notice to Remediate mailed under paragraph (1) of this
6 subsection and any party whose interest arose after the
7 recordation of the notice to remediate required under paragraph
8 (3), but not over the interests of third party purchasers or
9 encumbrancers for value who obtained their interests in the
10 property before obtaining actual or constructive notice of the
11 notice to remediate ~~lien~~. The recorded notice of lien shall
12 consist of a sworn statement setting forth (i) a description of
13 the real estate, such as the address or other description of
14 the property, sufficient for its identification; (ii) the
15 expenses and costs incurred by the municipality in undertaking
16 the remedial actions authorized under this subsection,
17 together with the interest rate payable thereon; (iii) the date
18 or dates the costs and expenses were incurred by the
19 municipality or the date the work was completed, whichever is
20 later; (iv) a statement by the corporate official responsible
21 for enforcing the building code that the building was open and
22 vacant and constituted an immediate and continuing hazard to
23 the community; (v) a statement by the corporate official that
24 the required sign was posted on the building, that notice was
25 sent by certified mail to the owners of record and the
26 beneficial owner of an Illinois land trust that is the record
27 owner, and that notice was published in accordance with this
28 subsection; and (vi) a statement as to when and where the
29 notice was published. The lien arising under ~~authorized~~ by this
30 subsection may thereafter be released or enforced by the
31 municipality as provided in subsection (a). The lien arising
32 under this subsection is reimbursable municipal advancement
33 under Section 22-35 of the Property Tax Code.

34 All liens arising under this subsection shall be
35 assignable. After assignment, the lien shall continue to bear
36 statutory interest as set forth in this subsection, but shall

1 cease to be reimbursable municipal advancement under Section
2 22-35 of the Property Tax Code. The assignee of the lien shall
3 have the same power to enforce the liens the assigning party,
4 except that only a municipality may enforce the lien under
5 subsection (c).

6 Statutory interest on the statutory lien arising under this
7 subsection shall be as set forth in Article II of the Code of
8 Civil Procedure concerning judgement liens. Interest payable
9 by the holder of a certificate of purchase of delinquent taxes
10 shall accrue from the later of (i) the date the costs and
11 expenses are incurred or the work is completes, whichever is
12 later, or (ii) the date of the tax sale represented by the
13 certificate of purchase.

14 (f) The corporate authorities of each municipality may
15 remove or cause the removal of, or otherwise environmentally
16 remediate hazardous substances and petroleum products on, in,
17 or under any abandoned or ~~and~~ unsafe property within the
18 territory of a municipality. In addition, where preliminary
19 evidence indicates the presence or likely presence of a
20 hazardous substance or a petroleum product or a release or a
21 substantial threat of a release of a hazardous substance or a
22 petroleum product on, in, or under the property, the corporate
23 authorities of the municipality may inspect the property and
24 test for the presence or release of hazardous substances and
25 petroleum products. In any county having adopted by referendum
26 or otherwise a county health department as provided by Division
27 5-25 of the Counties Code or its predecessor, the county board
28 of that county may exercise the above-described powers with
29 regard to property within the territory of any city, village,
30 or incorporated town having less than 50,000 population.

31 For purposes of this subsection (f):

32 (1) "property" or "real estate" means all real
33 property, whether or not improved by a structure;

34 (2) "abandoned" means;

35 (A) property taxes have not been paid ~~the property~~
36 ~~has been tax delinquent~~ for 2 or more consecutive years

1 or the property is subject to one or more certificates
2 of purchase of delinquent property taxes;

3 (B) the property is unoccupied by persons legally
4 in possession; and

5 (3) "unsafe" means property that presents an actual or
6 imminent threat to public health and safety caused by the
7 release of hazardous substances; and

8 (4) "hazardous substances" means the same as in Section
9 3.215 of the Environmental Protection Act.

10 The corporate authorities shall apply to the circuit court
11 of the county in which the property is located (i) for an order
12 allowing the municipality to enter the property and inspect and
13 test substances on, in, or under the property; or (ii) for an
14 order authorizing the corporate authorities to take action with
15 respect to remediation of the property if conditions on the
16 property, based on the inspection and testing authorized in
17 paragraph (i), indicate the presence of hazardous substances or
18 petroleum products. Remediation shall be deemed complete for
19 purposes of paragraph (ii) above when the property satisfies
20 Tier I, II, or III remediation objectives for the property's
21 most recent usage, as established by the Environmental
22 Protection Act, and the rules and regulations promulgated
23 thereunder. Where, upon diligent search, the identity or
24 whereabouts of the owner or owners of the property, including
25 the lien holders of record and the beneficial owner of an
26 Illinois land trust that is the record owner, is not
27 ascertainable, notice mailed to or service of summons upon the
28 person or persons in whose name the real estate was last
29 assessed is sufficient notice under this subsection ~~Section~~.

30 The court shall grant an order authorizing testing under
31 paragraph (i) above upon a showing of preliminary evidence
32 indicating the presence or likely presence of a hazardous
33 substance or a petroleum product or a release of or a
34 substantial threat of a release of a hazardous substance or a
35 petroleum product on, in, or under abandoned property. The
36 preliminary evidence may include, but is not limited to,

1 evidence of prior use, visual site inspection, or records of
2 prior environmental investigations. The testing authorized by
3 paragraph (i) above shall include any type of investigation
4 which is necessary for an environmental professional to
5 determine the environmental condition of the property,
6 including but not limited to performance of soil borings and
7 groundwater monitoring. The court shall grant a remediation
8 order under paragraph (ii) above where testing of the property
9 indicates that it fails to meet the applicable remediation
10 objectives. The hearing upon the application to the circuit
11 court shall be expedited by the court and shall be given
12 precedence over all other suits.

13 The cost of the inspection, testing, or remediation
14 incurred by the municipality or by a lien holder of record,
15 including court costs, attorney's fees, statutory interest
16 from the date the work is completed and other costs related to
17 the enforcement of this subsection ~~Section~~, is a lien on the
18 real estate; except that in any instances where a municipality
19 incurs costs of inspection and testing but finds no hazardous
20 substances or petroleum products on the property that present
21 an actual or imminent threat to public health and safety, such
22 costs are not recoverable from the owners nor are such costs a
23 lien on the real estate. The lien is superior to all prior
24 existing liens and encumbrances, except taxes and any lien
25 obtained under subsection (a) or (e), if, within 180 days after
26 the completion of the inspection, testing, or remediation, the
27 municipality or the lien holder of record who incurred the cost
28 and expense shall file a notice of lien for the cost and
29 expense incurred in the office of the recorder in the county in
30 which the real estate is located ~~or in the office of the~~
31 ~~registrar of titles of the county if the real estate affected~~
32 ~~is registered under the Registered Titles (Torrens) Act. All~~
33 liens arising under this subsection are reimbursable municipal
34 advancements under Section 22-35 of the Property Tax Code.

35 The recorded notice must consist of a sworn statement
36 setting out (i) a description of the real estate sufficient for

1 its identification, (ii) the amount of money representing the
2 cost and expense incurred, together with the interest rate
3 payable thereon, and (iii) the date or dates when the
4 inspection, testing, and remediation was completed ~~cost and~~
5 ~~expense was incurred~~ by the municipality or the lien holder of
6 record. Upon payment of the lien amount, including the payment
7 of interest as required under this subsection ~~by the owner of~~
8 ~~or persons interested in the property~~ after the notice of lien
9 has been filed, a release of lien shall be issued by the
10 municipality, the person in whose name the lien has been filed,
11 or the assignee of the lien, and the release may be filed of
12 record ~~as in the case of filing notice of lien.~~

13 The lien may be enforced under subsection (c) or by
14 foreclosure proceedings as in the case of mortgage foreclosures
15 under Article XV of the Code of Civil Procedure or ~~mechanics'~~
16 ~~lien foreclosures;~~ provided that where the lien is enforced by
17 foreclosure ~~under subsection (c) or under either statute,~~ the
18 municipality may not proceed against the other assets of the
19 owner or owners of the real estate or the beneficial owner of
20 an Illinois land trust that is the record owner, for any costs
21 that otherwise would be recoverable under this subsection
22 ~~Section~~ but that remain unsatisfied after foreclosure, except
23 where such additional recovery is authorized by separate
24 environmental laws. An action to foreclose this lien may be
25 commenced at any time after the date of filing of the notice of
26 lien. The costs of foreclosure incurred by the municipality,
27 including court costs, reasonable attorney's fees, advances to
28 preserve the property, and other costs related to the
29 enforcement of this subsection, plus statutory interest, as set
30 forth in this subsection, from the date the remediation is
31 completed, are a lien on the real estate.

32 All liens arising under this subsection (f) shall be
33 assignable. After assignment, the lien shall continue to bear
34 statutory interest as set forth in this subsection, but shall
35 cease to be a reimbursable municipal advancement under Section
36 22-35 of the Property Tax Code. The assignee of the lien shall

1 have the same power to enforce the lien as the assigning party,
2 except that only a municipality ~~the lien~~ may enforce the lien
3 ~~not be enforced~~ under subsection (c).

4 Statutory interest on the statutory liens arising under
5 this subsection shall be as set forth in Article II of the Code
6 of Civil Procedure concerning judgement liens. Interest
7 payable by the holder of a certificate of purchase of
8 delinquent taxes shall accrue from the later of (i) the date
9 the remediation was completed, or (ii) the date of the tax sale
10 represented by the certificate of purchase.

11 (g) In any case where a municipality has obtained a lien
12 under subsection (a), (b), (d), or (f), the municipality may
13 also bring an action for a money judgment against the owner or
14 owners of the real estate in the amount of the lien, plus
15 statutory interest, in the same manner as provided for bringing
16 causes of action in Article II of the Code of Civil Procedure
17 and, upon obtaining a judgment, file a judgment lien against
18 all of the real estate of the owner or owners and enforce that
19 lien as provided for in Article XII of the Code of Civil
20 Procedure.

21 (Source: P.A. 91-162, eff. 7-16-99; 91-177, eff. 1-1-00;
22 91-357, eff. 7-29-99; 91-542, eff. 1-1-00; 91-561, eff. 1-1-00;
23 92-16, eff. 6-28-01; 92-574, eff. 6-26-02; 92-681, eff. 1-1-03;
24 revised 2-18-03.)