



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1380

Introduced 2/20/2015, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-20-15

65 ILCS 5/11-20-15.1

65 ILCS 5/11-31-1

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

Amends the Municipal Code. Provides that liens obtained for the removal of neglected weeds, grass, trees, and bushes; pest extermination; removal of infected trees; removal of garbage, debris, and graffiti; the costs of removal, securing, and enclosing on abandoned residential property; and the cost of the demolition, repair, enclosure, or removal of dangerous and unsafe buildings or uncompleted and abandoned buildings shall also affix to all real property of the property owner or owners. Further provides that the notice requirements apply to liens against all real property of the property owner.

LRB099 09371 AWJ 29577 b

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 11-20-15, 11-20-15.1, and 11-31-1 as
6 follows:

7 (65 ILCS 5/11-20-15)

8 Sec. 11-20-15. Lien for removal costs.

9 (a) If the municipality incurs a removal cost under Section
10 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
11 underlying parcel, then that cost is a lien upon that
12 underlying parcel and all other real property of the property
13 owner or owners. This lien is superior to all other liens and
14 encumbrances, except tax liens and as otherwise provided in
15 subsection (c) of this Section.

16 (b) To perfect a lien under this Section, the municipality
17 must, within one year after the removal cost is incurred, file
18 notice of lien in the office of the recorder in the county in
19 which the underlying parcel is located or, if the underlying
20 parcel is registered under the Torrens system, in the office of
21 the Registrar of Titles of that county. The notice must consist
22 of a sworn statement setting out:

23 (1) a description of the underlying parcel that

1 sufficiently identifies the parcel;

2 (2) the amount of the removal cost; and

3 (3) the date or dates when the removal cost was
4 incurred by the municipality.

5 If, for any one parcel, the municipality engaged in any
6 removal activity on more than one occasion during the course of
7 one year, then the municipality may combine any or all of the
8 costs of each of those activities into a single notice of lien.

9 (c) A lien under this Section is not valid as to: (i) any
10 purchaser whose rights in and to the underlying parcel arose
11 after the removal activity but before the filing of the notice
12 of lien; or (ii) any mortgagee, judgment creditor, or other
13 lienor whose rights in and to the underlying parcel arose
14 before the filing of the notice of lien.

15 (d) The removal cost is not a lien on the underlying parcel
16 or other real property of the property owner or owners unless a
17 notice is personally served on, or sent by certified mail to,
18 the person to whom was sent the tax bill for the general taxes
19 on the property for the taxable year immediately preceding the
20 removal activities. The notice must be delivered or sent after
21 the removal activities have been performed, and it must: (i)
22 state the substance of this Section and the substance of any
23 ordinance of the municipality implementing this Section; (ii)
24 identify the underlying parcel, by common description; and
25 (iii) describe the removal activity.

26 (e) A lien under this Section may be enforced by

1 proceedings to foreclose as in case of mortgages or mechanics'
2 liens. An action to foreclose a lien under this Section must be
3 commenced within 2 years after the date of filing notice of
4 lien.

5 (f) Any person who performs a removal activity by the
6 authority of the municipality may, in his or her own name, file
7 a lien and foreclose on that lien in the same manner as a
8 municipality under this Section.

9 (g) A failure to file a foreclosure action does not, in any
10 way, affect the validity of the lien against the underlying
11 parcel or other parcels owned by the property owner or owners.

12 (h) Upon payment of the lien cost by the owner of the
13 underlying parcel after notice of lien has been filed, the
14 municipality (or its agent under subsection (f)) shall release
15 the lien, and the release may be filed of record by the owner
16 at his or her sole expense as in the case of filing notice of
17 lien.

18 (i) For the purposes of this Section:

19 "Lien cost" means the removal cost and the filing costs for
20 any notice of lien under subsection (b).

21 "Removal activity" means any activity for which a removal
22 cost was incurred.

23 "Removal cost" means a removal cost as defined under
24 Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13.

25 "Underlying parcel" means a parcel of private property upon
26 which a removal activity was performed.

1 "Year" means a 365-day period.

2 (j) This Section applies only to liens filed after August
3 14, 2009 (the effective date of Public Act 96-462).

4 (k) This Section shall not apply to a lien filed pursuant
5 to Section 11-20-15.1.

6 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
7 96-1000, eff. 7-2-10.)

8 (65 ILCS 5/11-20-15.1)

9 Sec. 11-20-15.1. Lien for costs of removal, securing, and
10 enclosing on abandoned residential property.

11 (a) If the municipality elects to incur a removal cost
12 pursuant to subsection (d) of Section 11-20-7, subsection (d)
13 of Section 11-20-8, subsection (d) of Section 11-20-12, or
14 subsection (e) of Section 11-20-13, or a securing or enclosing
15 cost pursuant to Section 11-31-1.01 with respect to an
16 abandoned residential property, then that cost is a lien upon
17 the underlying parcel of that abandoned residential property
18 and all real property of the property owner or owners. This
19 lien is superior to all other liens and encumbrances, except
20 tax liens and as otherwise provided in this Section.

21 (b) To perfect a lien under this Section, the municipality
22 must, within one year after the cost is incurred for the
23 activity, file notice of the lien in the office of the recorder
24 in the county in which the abandoned residential property or
25 any real property of the property owner or owners is located

1 or, if the abandoned residential property or any real property
2 of the property owner or owners is registered under the Torrens
3 system, in the office of the Registrar of Titles of that
4 county, a sworn statement setting out:

5 (1) a description of the abandoned residential
6 property that sufficiently identifies the parcel;

7 (2) the amount of the cost of the activity;

8 (3) the date or dates when the cost for the activity
9 was incurred by the municipality; and

10 (4) a statement that the lien has been filed pursuant
11 to subsection (d) of Section 11-20-7, subsection (d) of
12 Section 11-20-8, subsection (d) of Section 11-20-12,
13 subsection (e) of Section 11-20-13, or Section 11-31-1.01,
14 as applicable.

15 If, for any abandoned residential property, the
16 municipality engaged in any activity on more than one occasion
17 during the course of one year, then the municipality may
18 combine any or all of the costs of each of those activities
19 into a single notice of lien.

20 (c) To enforce a lien pursuant to this Section, the
21 municipality must maintain contemporaneous records that
22 include, at a minimum: (i) a dated statement of finding by the
23 municipality that the property for which the work is to be
24 performed has become abandoned residential property, which
25 shall include (1) the date when the property was first known or
26 observed to be unoccupied by any lawful occupant or occupants,

1 (2) a description of the actions taken by the municipality to
2 contact the legal owner or owners of the property identified on
3 the recorded mortgage, or, if known, any agent of the owner or
4 owners, including the dates such actions were taken, and (3) a
5 statement that no contacts were made with the legal owner or
6 owners or their agents as a result of such actions, (ii) a
7 dated certification by an authorized official of the
8 municipality of the necessity and specific nature of the work
9 to be performed, (iii) a copy of the agreement with the person
10 or entity performing the work that includes the legal name of
11 the person or entity, the rate or rates to be charged for
12 performing the work, and an estimate of the total cost of the
13 work to be performed, (iv) detailed invoices and payment
14 vouchers for all payments made by the municipality for such
15 work, and (v) a statement as to whether the work was engaged
16 through a competitive bidding process, and if so, a copy of all
17 proposals submitted by the bidders for such work.

18 (d) A lien under this Section shall be enforceable
19 exclusively at the hearing for confirmation of sale of the
20 abandoned residential property that is held pursuant to
21 subsection (b) of Section 15-1508 of the Code of Civil
22 Procedure and shall be limited to a claim of interest in the
23 proceeds of the sale and subject to the requirements of this
24 Section. Any mortgagee who holds a mortgage on the property, or
25 any beneficiary or trustee who holds a deed of trust on the
26 property, may contest the lien or the amount of the lien at any

1 time during the foreclosure proceeding upon motion and notice
2 in accordance with court rules applicable to motions generally.
3 Grounds for forfeiture of the lien or the superior status of
4 the lien granted by subsection (a) of this Section shall
5 include, but not be limited to, a finding by the court that:
6 (i) the municipality has not complied with subsection (b) or
7 (c) of this Section, (ii) the scope of the work was not
8 reasonable under the circumstances, (iii) the work exceeded the
9 authorization for the work to be performed under subsection (a)
10 of Section 11-20-7, subsection (a) of Section 11-20-8,
11 subsection (a) of Section 11-20-12, subsection (a) of Section
12 11-20-13, or subsection (a) of Section 11-31-1.01, as
13 applicable, or (iv) the cost of the services rendered or
14 materials provided was not commercially reasonable. Forfeiture
15 of the superior status of the lien otherwise granted by this
16 Section shall not constitute a forfeiture of the lien as a
17 subordinate lien.

18 (e) Upon payment of the amount of a lien filed under this
19 Section by the mortgagee, servicer, owner, or any other person,
20 the municipality shall release the lien, and the release may be
21 filed of record by the person making such payment at the
22 person's sole expense as in the case of filing notice of lien.

23 (f) Notwithstanding any other provision of this Section, a
24 municipality may not file a lien pursuant to this Section for
25 activities performed pursuant to Section 11-20-7, Section
26 11-20-8, Section 11-20-12, Section 11-20-13, or Section

1 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
2 residential property has provided notice to the municipality
3 that the mortgagee or servicer has performed or will perform
4 the remedial actions specified in the notice that the
5 municipality otherwise might perform pursuant to subsection
6 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
7 subsection (d) of Section 11-20-12, subsection (e) of Section
8 11-20-13, or Section 11-31-1.01, provided that the remedial
9 actions specified in the notice have been performed or are
10 performed or initiated in good faith within 30 days of such
11 notice; or (ii) the municipality has provided notice to the
12 mortgagee or servicer of a problem with the property requiring
13 the remedial actions specified in the notice that the
14 municipality otherwise would perform pursuant to subsection
15 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
16 subsection (d) of Section 11-20-12, subsection (e) of Section
17 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
18 has performed or performs or initiates in good faith the
19 remedial actions specified in the notice within 30 days of such
20 notice.

21 (g) This Section and subsection (d) of Section 11-20-7,
22 subsection (d) of Section 11-20-8, subsection (d) of Section
23 11-20-12, subsection (e) of Section 11-20-13, or Section
24 11-31-1.01 shall apply only to activities performed, costs
25 incurred, and liens filed after the effective date of this
26 amendatory Act of the 96th General Assembly.

1 (h) For the purposes of this Section and subsection (d) of
2 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
3 (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or
4 Section 11-31-1.01:

5 "Abandoned residential property" means any type of
6 permanent residential dwelling unit, including detached single
7 family structures, and townhouses, condominium units and
8 multifamily rental apartments covering the entire property,
9 and manufactured homes treated under Illinois law as real
10 estate and not as personal property, that has been unoccupied
11 by any lawful occupant or occupants for at least 90 days, and
12 for which after such 90 day period, the municipality has made
13 good faith efforts to contact the legal owner or owners of the
14 property identified on the recorded mortgage, or, if known, any
15 agent of the owner or owners, and no contact has been made. A
16 property for which the municipality has been given notice of
17 the order of confirmation of sale pursuant to subsection (b-10)
18 of Section 15-1508 of the Code of Civil Procedure shall not be
19 deemed to be an abandoned residential property for the purposes
20 of subsection (d) of Section 11-20-7, subsection (d) of Section
21 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
22 Section 11-20-13, and Section 11-31-1.01 of this Code.

23 "MERS program" means the nationwide Mortgage Electronic
24 Registration System approved by Fannie Mae, Freddie Mac, and
25 Ginnie Mae that has been created by the mortgage banking
26 industry with the mission of registering every mortgage loan in

1 the United States to lawfully make information concerning each
2 residential mortgage loan and the property securing it
3 available by Internet access to mortgage originators,
4 servicers, warehouse lenders, wholesale lenders, retail
5 lenders, document custodians, settlement agents, title
6 companies, insurers, investors, county recorders, units of
7 local government, and consumers.

8 (i) Any entity or person who performs a removal, securing,
9 or enclosing activity pursuant to the authority of a
10 municipality under subsection (d) of Section 11-20-7,
11 subsection (d) of Section 11-20-8, subsection (d) of Section
12 11-20-12, subsection (e) of Section 11-20-13, or Section
13 11-31-1.01, may, in its, his, or her own name, file a lien
14 pursuant to subsection (b) of this Section and appear in a
15 foreclosure action on that lien pursuant to subsection (d) of
16 this Section in the place of the municipality, provided that
17 the municipality shall remain subject to subsection (c) of this
18 Section, and such party shall be subject to all of the
19 provisions in this Section as if such party were the
20 municipality.

21 (i-5) All amounts received by the municipality for costs
22 incurred pursuant to this Section for which the municipality
23 has been reimbursed under Section 7.31 of the Illinois Housing
24 Development Act shall be remitted to the State Treasurer for
25 deposit into the Abandoned Residential Property Municipality
26 Relief Fund.

1 (j) If prior to subsection (d) of Section 11-20-7,
2 subsection (d) of Section 11-20-8, subsection (d) of Section
3 11-20-12, and subsection (e) of Section 11-20-13 becoming
4 inoperative a lien is filed pursuant to any of those
5 subsections, then the lien shall remain in full force and
6 effect after the subsections have become inoperative, subject
7 to all of the provisions of this Section. If prior to the
8 repeal of Section 11-31-1.01 a lien is filed pursuant to
9 Section 11-31-1.01, then the lien shall remain in full force
10 and effect after the repeal of Section 11-31-1.01, subject to
11 all of the provisions of this Section.

12 (Source: P.A. 96-856, eff. 3-1-10; 96-1419, eff. 10-1-10.)

13 (65 ILCS 5/11-31-1) (from Ch. 24, par. 11-31-1)

14 Sec. 11-31-1. Demolition, repair, enclosure, or
15 remediation.

16 (a) The corporate authorities of each municipality may
17 demolish, repair, or enclose or cause the demolition, repair,
18 or enclosure of dangerous and unsafe buildings or uncompleted
19 and abandoned buildings within the territory of the
20 municipality and may remove or cause the removal of garbage,
21 debris, and other hazardous, noxious, or unhealthy substances
22 or materials from those buildings. In any county having adopted
23 by referendum or otherwise a county health department as
24 provided by Division 5-25 of the Counties Code or its
25 predecessor, the county board of that county may exercise those

1 powers with regard to dangerous and unsafe buildings or
2 uncompleted and abandoned buildings within the territory of any
3 city, village, or incorporated town having less than 50,000
4 population.

5 The corporate authorities shall apply to the circuit court
6 of the county in which the building is located (i) for an order
7 authorizing action to be taken with respect to a building if
8 the owner or owners of the building, including the lien holders
9 of record, after at least 15 days' written notice by mail so to
10 do, have failed to put the building in a safe condition or to
11 demolish it or (ii) for an order requiring the owner or owners
12 of record to demolish, repair, or enclose the building or to
13 remove garbage, debris, and other hazardous, noxious, or
14 unhealthy substances or materials from the building. It is not
15 a defense to the cause of action that the building is boarded
16 up or otherwise enclosed, although the court may order the
17 defendant to have the building boarded up or otherwise
18 enclosed. Where, upon diligent search, the identity or
19 whereabouts of the owner or owners of the building, including
20 the lien holders of record, is not ascertainable, notice mailed
21 to the person or persons in whose name the real estate was last
22 assessed is sufficient notice under this 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

1 brought under this Section.

2 The cost of the demolition, repair, enclosure, or removal
3 incurred by the municipality, by an intervenor, or by a lien
4 holder of record, including court costs, attorney's fees, and
5 other costs related to the enforcement of this Section, is
6 recoverable from the owner or owners of the real estate or the
7 previous owner or both if the property was transferred during
8 the 15 day notice period and is a lien on the real estate and
9 all real property of the owner or owners; the lien is superior
10 to all prior existing liens and encumbrances, except taxes, if,
11 within 180 days after the repair, demolition, enclosure, or
12 removal, the municipality, the lien holder of record, or the
13 intervenor who incurred the cost and expense shall file a
14 notice of lien for the cost and expense incurred in the office
15 of the recorder in the county in which the real estate or any
16 real property of the owner or owners is located or in the
17 office of the registrar of titles of the county if any of the
18 real estate affected is registered under the Registered Titles
19 (Torrens) Act.

20 The notice must consist of a sworn statement setting out
21 (1) a description of the real estate sufficient for its
22 identification, (2) the amount of money representing the cost
23 and expense incurred, and (3) the date or dates when the cost
24 and expense was incurred by the municipality, the lien holder
25 of record, or the intervenor. Upon payment of the cost and
26 expense by the owner of or persons interested in the property

1 after the notice of lien has been filed, the lien shall be
2 released by the municipality, the person in whose name the lien
3 has been filed, or the assignee of the lien, and the release
4 may be filed of record as in the case of filing notice of lien.
5 Unless the lien is enforced under subsection (c), the lien may
6 be enforced by foreclosure proceedings as in the case of
7 mortgage foreclosures under Article XV of the Code of Civil
8 Procedure or mechanics' lien foreclosures. An action to
9 foreclose this lien may be commenced at any time after the date
10 of filing of the notice of lien. The costs of foreclosure
11 incurred by the municipality, including court costs,
12 reasonable attorney's fees, advances to preserve the property,
13 and other costs related to the enforcement of this subsection,
14 plus statutory interest, are a lien on the real estate and all
15 real property of the owner or owners and are recoverable by the
16 municipality from the owner or owners of the real estate.

17 All liens arising under this subsection (a) shall be
18 assignable. The assignee of the lien shall have the same power
19 to enforce the lien as the assigning party, except that the
20 lien may not be enforced under subsection (c).

21 If the appropriate official of any municipality determines
22 that any dangerous and unsafe building or uncompleted and
23 abandoned building within its territory fulfills the
24 requirements for an action by the municipality under the
25 Abandoned Housing Rehabilitation Act, the municipality may
26 petition under that Act in a proceeding brought under this

1 subsection.

2 (b) Any owner or tenant of real property within 1200 feet
3 in any direction of any dangerous or unsafe building located
4 within the territory of a municipality with a population of
5 500,000 or more may file with the appropriate municipal
6 authority a request that the municipality apply to the circuit
7 court of the county in which the building is located for an
8 order permitting the demolition, removal of garbage, debris,
9 and other noxious or unhealthy substances and materials from,
10 or repair or enclosure of the building in the manner prescribed
11 in subsection (a) of this Section. If the municipality fails to
12 institute an action in circuit court within 90 days after the
13 filing of the request, the owner or tenant of real property
14 within 1200 feet in any direction of the building may institute
15 an action in circuit court seeking an order compelling the
16 owner or owners of record to demolish, remove garbage, debris,
17 and other noxious or unhealthy substances and materials from,
18 repair or enclose or to cause to be demolished, have garbage,
19 debris, and other noxious or unhealthy substances and materials
20 removed from, repaired, or enclosed the building in question. A
21 private owner or tenant who institutes an action under the
22 preceding sentence shall not be required to pay any fee to the
23 clerk of the circuit court. The cost of repair, removal,
24 demolition, or enclosure shall be borne by the owner or owners
25 of record of the building. In the event the owner or owners of
26 record fail to demolish, remove garbage, debris, and other

1 noxious or unhealthy substances and materials from, repair, or
2 enclose the building within 90 days of the date the court
3 entered its order, the owner or tenant who instituted the
4 action may request that the court join the municipality as a
5 party to the action. The court may order the municipality to
6 demolish, remove materials from, repair, or enclose the
7 building, or cause that action to be taken upon the request of
8 any owner or tenant who instituted the action or upon the
9 municipality's request. The municipality may file, and the
10 court may approve, a plan for rehabilitating the building in
11 question. A court order authorizing the municipality to
12 demolish, remove materials from, repair, or enclose a building,
13 or cause that action to be taken, shall not preclude the court
14 from adjudging the owner or owners of record of the building in
15 contempt of court due to the failure to comply with the order
16 to demolish, remove garbage, debris, and other noxious or
17 unhealthy substances and materials from, repair, or enclose the
18 building.

19 If a municipality or a person or persons other than the
20 owner or owners of record pay the cost of demolition, removal
21 of garbage, debris, and other noxious or unhealthy substances
22 and materials, repair, or enclosure pursuant to a court order,
23 the cost, including court costs, attorney's fees, and other
24 costs related to the enforcement of this subsection, is
25 recoverable from the owner or owners of the real estate and is
26 a lien on the real estate and all real property of the owner or

1 owners; the lien is superior to all prior existing liens and
2 encumbrances, except taxes, if, within 180 days after the
3 repair, removal, demolition, or enclosure, the municipality or
4 the person or persons who paid the costs of demolition,
5 removal, repair, or enclosure shall file a notice of lien of
6 the cost and expense incurred in the office of the recorder in
7 the county in which the real estate or any real property of the
8 owner or owners is located or in the office of the registrar of
9 the county if the real estate affected is registered under the
10 Registered Titles (Torrens) Act. The notice shall be in a form
11 as is provided in subsection (a). An owner or tenant who
12 institutes an action in circuit court seeking an order to
13 compel the owner or owners of record to demolish, remove
14 materials from, repair, or enclose any dangerous or unsafe
15 building, or to cause that action to be taken under this
16 subsection may recover court costs and reasonable attorney's
17 fees for instituting the action from the owner or owners of
18 record of the building. Upon payment of the costs and expenses
19 by the owner of or a person interested in the property after
20 the notice of lien has been filed, the lien shall be released
21 by the municipality or the person in whose name the lien has
22 been filed or his or her assignee, and the release may be filed
23 of record as in the case of filing a notice of lien. Unless the
24 lien is enforced under subsection (c), the lien may be enforced
25 by foreclosure proceedings as in the case of mortgage
26 foreclosures under Article XV of the Code of Civil Procedure or

1 mechanics' lien foreclosures. An action to foreclose this lien
2 may be commenced at any time after the date of filing of the
3 notice of lien. The costs of foreclosure incurred by the
4 municipality, including court costs, reasonable attorneys'
5 fees, advances to preserve the property, and other costs
6 related to the enforcement of this subsection, plus statutory
7 interest, are a lien on the real estate and all real property
8 of the owner or owners and are recoverable by the municipality
9 from the owner or owners of the real estate.

10 All liens arising under the terms of this subsection (b)
11 shall be assignable. The assignee of the lien shall have the
12 same power to enforce the lien as the assigning party, except
13 that the lien may not be enforced under subsection (c).

14 (c) In any case where a municipality has obtained a lien
15 under subsection (a), (b), or (f), the municipality may enforce
16 the lien under this subsection (c) in the same proceeding in
17 which the lien is authorized.

18 A municipality desiring to enforce a lien under this
19 subsection (c) shall petition the court to retain jurisdiction
20 for foreclosure proceedings under this subsection. Notice of
21 the petition shall be served, by certified or registered mail,
22 on all persons who were served notice under subsection (a),
23 (b), or (f). The court shall conduct a hearing on the petition
24 not less than 15 days after the notice is served. If the court
25 determines that the requirements of this subsection (c) have
26 been satisfied, it shall grant the petition and retain

1 jurisdiction over the matter until the foreclosure proceeding
2 is completed. The costs of foreclosure incurred by the
3 municipality, including court costs, reasonable attorneys'
4 fees, advances to preserve the property, and other costs
5 related to the enforcement of this subsection, plus statutory
6 interest, are a lien on the real estate and all real property
7 of the owner or owners and are recoverable by the municipality
8 from the owner or owners of the real estate. If the court
9 denies the petition, the municipality may enforce the lien in a
10 separate action as provided in subsection (a), (b), or (f).

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

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

26 (d) In addition to any other remedy provided by law, the

1 corporate authorities of any municipality may petition the
2 circuit court to have property declared abandoned under this
3 subsection (d) if:

4 (1) the property has been tax delinquent for 2 or more
5 years or bills for water service for the property have been
6 outstanding for 2 or more years;

7 (2) the property is unoccupied by persons legally in
8 possession; and

9 (3) the property contains a dangerous or unsafe
10 building for reasons specified in the petition.

11 All persons having an interest of record in the property,
12 including tax purchasers and beneficial owners of any Illinois
13 land trust having title to the property, shall be named as
14 defendants in the petition and shall be served with process. In
15 addition, service shall be had under Section 2-206 of the Code
16 of Civil Procedure as in other cases affecting property.

17 The municipality, however, may proceed under this
18 subsection in a proceeding brought under subsection (a) or (b).
19 Notice of the petition shall be served in person or by
20 certified or registered mail on all persons who were served
21 notice under subsection (a) or (b).

22 If the municipality proves that the conditions described in
23 this subsection exist and (i) the owner of record of the
24 property does not enter an appearance in the action, or, if
25 title to the property is held by an Illinois land trust, if
26 neither the owner of record nor the owner of the beneficial

1 interest of the trust enters an appearance, or (ii) if the
2 owner of record or the beneficiary of a land trust, if title to
3 the property is held by an Illinois land trust, enters an
4 appearance and specifically waives his or her rights under this
5 subsection (d), the court shall declare the property abandoned.
6 Notwithstanding any waiver, the municipality may move to
7 dismiss its petition at any time. In addition, any waiver in a
8 proceeding under this subsection (d) does not serve as a waiver
9 for any other proceeding under law or equity.

10 If that determination is made, notice shall be sent in
11 person or by certified or registered mail to all persons having
12 an interest of record in the property, including tax purchasers
13 and beneficial owners of any Illinois land trust having title
14 to the property, stating that title to the property will be
15 transferred to the municipality unless, within 30 days of the
16 notice, the owner of record or any other person having an
17 interest in the property files with the court a request to
18 demolish the dangerous or unsafe building or to put the
19 building in safe condition, or unless the owner of record
20 enters an appearance and proves that the owner does not intend
21 to abandon the property.

22 If the owner of record enters an appearance in the action
23 within the 30 day period, but does not at that time file with
24 the court a request to demolish the dangerous or unsafe
25 building or to put the building in safe condition, or
26 specifically waive his or her rights under this subsection (d),

1 the court shall vacate its order declaring the property
2 abandoned if it determines that the owner of record does not
3 intend to abandon the property. In that case, the municipality
4 may amend its complaint in order to initiate proceedings under
5 subsection (a), or it may request that the court order the
6 owner to demolish the building or repair the dangerous or
7 unsafe conditions of the building alleged in the petition or
8 seek the appointment of a receiver or other equitable relief to
9 correct the conditions at the property. The powers and rights
10 of a receiver appointed under this subsection (d) shall include
11 all of the powers and rights of a receiver appointed under
12 Section 11-31-2 of this Code.

13 If a request to demolish or repair the building is filed
14 within the 30 day period, the court shall grant permission to
15 the requesting party to demolish the building within 30 days or
16 to restore the building to safe condition within 60 days after
17 the request is granted. An extension of that period for up to
18 60 additional days may be given for good cause. If more than
19 one person with an interest in the property files a timely
20 request, preference shall be given to the owner of record if
21 the owner filed a request or, if the owner did not, the person
22 with the lien or other interest of the highest priority.

23 If the requesting party (other than the owner of record)
24 proves to the court that the building has been demolished or
25 put in a safe condition in accordance with the local safety
26 codes within the period of time granted by the court, the court

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

20 If the owner of record has not entered an appearance and
21 proven that the owner did not intend to abandon the property,
22 and if no person with an interest in the property files a
23 timely request or if the requesting party fails to demolish the
24 building or put the building in safe condition within the time
25 specified by the court, the municipality may petition the court
26 to issue a judicial deed for the property to the municipality.

1 A conveyance by judicial deed shall operate to extinguish all
2 existing ownership interests in, liens on, and other interest
3 in the property, including tax liens, and shall extinguish the
4 rights and interests of any and all holders of a bona fide
5 certificate of purchase of the property for delinquent taxes.
6 Any such bona fide certificate of purchase holder shall be
7 entitled to a sale in error as prescribed under Section 21-310
8 of the Property Tax Code.

9 (e) Each municipality may use the provisions of this
10 subsection to expedite the removal of certain buildings that
11 are a continuing hazard to the community in which they are
12 located.

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

1 or enclosed, or any garbage, debris, and other hazardous,
2 noxious, or unhealthy substances or materials may be removed,
3 by the municipality.

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

6 (1) Cause to be sent, by certified mail, return receipt
7 requested, a Notice to Remediate to all owners of record of
8 the property, the beneficial owners of any Illinois land
9 trust having title to the property, and all lienholders of
10 record in the property, stating the intent of the
11 municipality to demolish, repair, or enclose the building
12 or remove any garbage, debris, or other hazardous, noxious,
13 or unhealthy substances or materials if that action is not
14 taken by the owner or owners.

15 (2) Cause to be published, in a newspaper published or
16 circulated in the municipality where the building is
17 located, a notice setting forth (i) the permanent tax index
18 number and the address of the building, (ii) a statement
19 that the property is open and vacant and constitutes an
20 immediate and continuing hazard to the community, and (iii)
21 a statement that the municipality intends to demolish,
22 repair, or enclose the building or remove any garbage,
23 debris, or other hazardous, noxious, or unhealthy
24 substances or materials if the owner or owners or
25 lienholders of record fail to do so. This notice shall be
26 published for 3 consecutive days.

1 (3) Cause to be recorded the Notice to Remediate mailed
2 under paragraph (1) in the office of the recorder in the
3 county in which the real estate is located or in the office
4 of the registrar of titles of the county if the real estate
5 is registered under the Registered Title (Torrens) Act.

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

10 If the building is not demolished, repaired, or enclosed,
11 or the garbage, debris, or other hazardous, noxious, or
12 unhealthy substances or materials are not removed, within 30
13 days of mailing the notice to the owners of record, the
14 beneficial owners of any Illinois land trust having title to
15 the property, and all lienholders of record in the property, or
16 within 30 days of the last day of publication of the notice,
17 whichever is later, the corporate authorities shall have the
18 power to demolish, repair, or enclose the building or to remove
19 any garbage, debris, or other hazardous, noxious, or unhealthy
20 substances or materials.

21 The municipality may proceed to demolish, repair, or
22 enclose a building or remove any garbage, debris, or other
23 hazardous, noxious, or unhealthy substances or materials under
24 this subsection within a 120-day period following the date of
25 the mailing of the notice if the appropriate official
26 determines that the demolition, repair, enclosure, or removal

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

1 Following the demolition, repair, or enclosure of a
2 building, or the removal of garbage, debris, or other
3 hazardous, noxious, or unhealthy substances or materials under
4 this subsection, the municipality may file a notice of lien
5 against the real estate and all real property of the owner or
6 owners for the cost of the demolition, repair, enclosure, or
7 removal within 180 days after the repair, demolition,
8 enclosure, or removal occurred, for the cost and expense
9 incurred, in the office of the recorder in the county in which
10 the real estate or any real property of the owner or owners is
11 located or in the office of the registrar of titles of the
12 county if the real estate affected is registered under the
13 Registered Titles (Torrens) Act; this lien has priority over
14 the interests of those parties named in the Notice to Remediate
15 mailed under paragraph (1), but not over the interests of third
16 party purchasers or encumbrancers for value who obtained their
17 interests in the property before obtaining actual or
18 constructive notice of the lien. The notice of lien shall
19 consist of a sworn statement setting forth (i) a description of
20 the real estate, such as the address or other description of
21 the property, sufficient for its identification; (ii) the
22 expenses incurred by the municipality in undertaking the
23 remedial actions authorized under this subsection; (iii) the
24 date or dates the expenses were incurred by the municipality;
25 (iv) a statement by the corporate official responsible for
26 enforcing the building code that the building was open and

1 vacant and constituted an immediate and continuing hazard to
2 the community; (v) a statement by the corporate official that
3 the required sign was posted on the building, that notice was
4 sent by certified mail to the owners of record, and that notice
5 was published in accordance with this subsection; and (vi) a
6 statement as to when and where the notice was published. The
7 lien authorized by this subsection may thereafter be released
8 or enforced by the municipality as provided in subsection (a).

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

26 For purposes of this subsection (f):

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

3 (2) "abandoned" means;

4 (A) the property has been tax delinquent for 2 or
5 more years;

6 (B) the property is unoccupied by persons legally
7 in possession; and

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

11 (4) "hazardous substances" means the same as in Section
12 3.215 of the Environmental Protection Act.

13 The corporate authorities shall apply to the circuit court
14 of the county in which the property is located (i) for an order
15 allowing the municipality to enter the property and inspect and
16 test substances on, in, or under the property; or (ii) for an
17 order authorizing the corporate authorities to take action with
18 respect to remediation of the property if conditions on the
19 property, based on the inspection and testing authorized in
20 paragraph (i), indicate the presence of hazardous substances or
21 petroleum products. Remediation shall be deemed complete for
22 purposes of paragraph (ii) above when the property satisfies
23 Tier I, II, or III remediation objectives for the property's
24 most recent usage, as established by the Environmental
25 Protection Act, and the rules and regulations promulgated
26 thereunder. Where, upon diligent search, the identity or

1 whereabouts of the owner or owners of the property, including
2 the lien holders of record, is not ascertainable, notice mailed
3 to the person or persons in whose name the real estate was last
4 assessed is sufficient notice under this Section.

5 The court shall grant an order authorizing testing under
6 paragraph (i) above upon a showing of preliminary evidence
7 indicating the presence or likely presence of a hazardous
8 substance or a petroleum product or a release of or a
9 substantial threat of a release of a hazardous substance or a
10 petroleum product on, in, or under abandoned property. The
11 preliminary evidence may include, but is not limited to,
12 evidence of prior use, visual site inspection, or records of
13 prior environmental investigations. The testing authorized by
14 paragraph (i) above shall include any type of investigation
15 which is necessary for an environmental professional to
16 determine the environmental condition of the property,
17 including but not limited to performance of soil borings and
18 groundwater monitoring. The court shall grant a remediation
19 order under paragraph (ii) above where testing of the property
20 indicates that it fails to meet the applicable remediation
21 objectives. The hearing upon the application to the circuit
22 court shall be expedited by the court and shall be given
23 precedence over all other suits.

24 The cost of the inspection, testing, or remediation
25 incurred by the municipality or by a lien holder of record,
26 including court costs, attorney's fees, and other costs related

1 to the enforcement of this Section, is a lien on the real
2 estate and all real property of the owner or owners; except
3 that in any instances where a municipality incurs costs of
4 inspection and testing but finds no hazardous substances or
5 petroleum products on the property that present an actual or
6 imminent threat to public health and safety, such costs are not
7 recoverable from the owners nor are such costs a lien on the
8 real estate. The lien is superior to all prior existing liens
9 and encumbrances, except taxes and any lien obtained under
10 subsection (a) or (e), if, within 180 days after the completion
11 of the inspection, testing, or remediation, the municipality or
12 the lien holder of record who incurred the cost and expense
13 shall file a notice of lien for the cost and expense incurred
14 in the office of the recorder in the county in which the real
15 estate or any real property of the owner or owners is located
16 or in the office of the registrar of titles of the county if
17 the real estate affected is registered under the Registered
18 Titles (Torrens) Act.

19 The notice must consist of a sworn statement setting out
20 (i) a description of the real estate sufficient for its
21 identification, (ii) the amount of money representing the cost
22 and expense incurred, and (iii) the date or dates when the cost
23 and expense was incurred by the municipality or the lien holder
24 of record. Upon payment of the lien amount by the owner of or
25 persons interested in the property after the notice of lien has
26 been filed, a release of lien shall be issued by the

1 municipality, the person in whose name the lien has been filed,
2 or the assignee of the lien, and the release may be filed of
3 record as in the case of filing notice of lien.

4 The lien may be enforced under subsection (c) or by
5 foreclosure proceedings as in the case of mortgage foreclosures
6 under Article XV of the Code of Civil Procedure or mechanics'
7 lien foreclosures; provided that where the lien is enforced by
8 foreclosure under subsection (c) or under either statute, the
9 municipality may not proceed against the other assets of the
10 owner or owners of the real estate for any costs that otherwise
11 would be recoverable under this Section but that remain
12 unsatisfied after foreclosure except where such additional
13 recovery is authorized by separate environmental laws. An
14 action to foreclose this lien may be commenced at any time
15 after the date of filing of the notice of lien. The costs of
16 foreclosure incurred by the municipality, including court
17 costs, reasonable attorney's fees, advances to preserve the
18 property, and other costs related to the enforcement of this
19 subsection, plus statutory interest, are a lien on the real
20 estate.

21 All liens arising under this subsection (f) shall be
22 assignable. The assignee of the lien shall have the same power
23 to enforce the lien as the assigning party, except that the
24 lien may not be enforced under subsection (c).

25 (g) In any case where a municipality has obtained a lien
26 under subsection (a), the municipality may also bring an action

1 for a money judgment against the owner or owners of the real
2 estate in the amount of the lien in the same manner as provided
3 for bringing causes of action in Article II of the Code of
4 Civil Procedure and, upon obtaining a judgment, file a judgment
5 lien against all of the real estate of the owner or owners and
6 enforce that lien as provided for in Article XII of the Code of
7 Civil Procedure.

8 (Source: P.A. 95-331, eff. 8-21-07; 95-931, eff. 1-1-09.)