



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2435

Introduced 2/9/2016, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1005	from Ch. 34, par. 5-1005
55 ILCS 5/5-1121	
65 ILCS 5/11-31-1	from Ch. 24, par. 11-31-1
65 ILCS 5/11-76-4.3 new	

Amends the Counties Code. Provides that a county may petition the circuit court to have property declared abandoned if the county's petition specifies that the property is not being maintained as shown by the county having to abate a violation more than 3 times within a 12 month period. Provides that a county may transfer an irregular public parcel at no cost to adjoining property owners after receiving no bids after a public auction or no offers after adopting a resolution to sell the irregular public parcel. Defines "irregular public parcel". Amends the Illinois Municipal Code to make similar changes. Effective immediately.

LRB099 17889 AWJ 42251 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 Counties Code is amended by changing
5 Sections 5-1005 and 5-1121 as follows:

6 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

7 Sec. 5-1005. Powers. Each county shall have power:

8 1. To purchase and hold the real and personal estate
9 necessary for the uses of the county, and to purchase and
10 hold, for the benefit of the county, real estate sold by
11 virtue of judicial proceedings in which the county is
12 plaintiff.

13 2. To sell and convey or lease any real or personal
14 estate owned by the county.

15 3. To make all contracts and do all other acts in
16 relation to the property and concerns of the county
17 necessary to the exercise of its corporate powers.

18 4. To take all necessary measures and institute
19 proceedings to enforce all laws for the prevention of
20 cruelty to animals.

21 5. To purchase and hold or lease real estate upon which
22 may be erected and maintained buildings to be utilized for
23 purposes of agricultural experiments and to purchase, hold

1 and use personal property for the care and maintenance of
2 such real estate in connection with such experimental
3 purposes.

4 6. To cause to be erected, or otherwise provided,
5 suitable buildings for, and maintain a county hospital and
6 necessary branch hospitals and/or a county sheltered care
7 home or county nursing home for the care of such sick,
8 chronically ill or infirm persons as may by law be proper
9 charges upon the county, or upon other governmental units,
10 and to provide for the management of the same. The county
11 board may establish rates to be paid by persons seeking
12 care and treatment in such hospital or home in accordance
13 with their financial ability to meet such charges, either
14 personally or through a hospital plan or hospital
15 insurance, and the rates to be paid by governmental units,
16 including the State, for the care of sick, chronically ill
17 or infirm persons admitted therein upon the request of such
18 governmental units. Any hospital maintained by a county
19 under this Section is authorized to provide any service and
20 enter into any contract or other arrangement not prohibited
21 for a hospital that is licensed under the Hospital
22 Licensing Act, incorporated under the General
23 Not-For-Profit Corporation Act, and exempt from taxation
24 under paragraph (3) of subsection (c) of Section 501 of the
25 Internal Revenue Code.

26 7. To contribute such sums of money toward erecting,

1 building, maintaining, and supporting any non-sectarian
2 public hospital located within its limits as the county
3 board of the county shall deem proper.

4 8. To purchase and hold real estate for the
5 preservation of forests, prairies and other natural areas
6 and to maintain and regulate the use thereof.

7 9. To purchase and hold real estate for the purpose of
8 preserving historical spots in the county, to restore,
9 maintain and regulate the use thereof and to donate any
10 historical spot to the State.

11 10. To appropriate funds from the county treasury to be
12 used in any manner to be determined by the board for the
13 suppression, eradication and control of tuberculosis among
14 domestic cattle in such county.

15 11. To take all necessary measures to prevent forest
16 fires and encourage the maintenance and planting of trees
17 and the preservation of forests.

18 12. To authorize the closing on Saturday mornings of
19 all offices of all county officers at the county seat of
20 each county, and to otherwise regulate and fix the days and
21 the hours of opening and closing of such offices, except
22 when the days and the hours of opening and closing of the
23 office of any county officer are otherwise fixed by law;
24 but the power herein conferred shall not apply to the
25 office of State's Attorney and the offices of judges and
26 clerks of courts and, in counties of 500,000 or more

1 population, the offices of county clerk.

2 13. To provide for the conservation, preservation and
3 propagation of insectivorous birds through the expenditure
4 of funds provided for such purpose.

5 14. To appropriate funds from the county treasury and
6 expend the same for care and treatment of tuberculosis
7 residents.

8 15. In counties having less than 1,000,000
9 inhabitants, to take all necessary or proper steps for the
10 extermination of mosquitoes, flies or other insects within
11 the county.

12 16. To install an adequate system of accounts and
13 financial records in the offices and divisions of the
14 county, suitable to the needs of the office and in
15 accordance with generally accepted principles of
16 accounting for governmental bodies, which system may
17 include such reports as the county board may determine.

18 17. To purchase and hold real estate for the
19 construction and maintenance of motor vehicle parking
20 facilities for persons using county buildings, but the
21 purchase and use of such real estate shall not be for
22 revenue producing purposes.

23 18. To acquire and hold title to real property located
24 within the county, or partly within and partly outside the
25 county by dedication, purchase, gift, legacy or lease, for
26 park and recreational purposes and to charge reasonable

1 fees for the use of or admission to any such park or
2 recreational area and to provide police protection for such
3 park or recreational area. Personnel employed to provide
4 such police protection shall be conservators of the peace
5 within such park or recreational area and shall have power
6 to make arrests on view of the offense or upon warrants for
7 violation of any of the ordinances governing such park or
8 recreational area or for any breach of the peace in the
9 same manner as the police in municipalities organized and
10 existing under the general laws of the State. All such real
11 property outside the county shall be contiguous to the
12 county and within the boundaries of the State of Illinois.

13 19. To appropriate funds from the county treasury to be
14 used to provide supportive social services designed to
15 prevent the unnecessary institutionalization of elderly
16 residents, or, for operation of, and equipment for, senior
17 citizen centers providing social services to elderly
18 residents.

19 20. To appropriate funds from the county treasury and
20 loan such funds to a county water commission created under
21 the "Water Commission Act", approved June 30, 1984, as now
22 or hereafter amended, in such amounts and upon such terms
23 as the county may determine or the county and the
24 commission may agree. The county shall not under any
25 circumstances be obligated to make such loans. The county
26 shall not be required to charge interest on any such loans.

1 21. To appropriate and expend funds from the county
2 treasury for economic development purposes, including the
3 making of grants to any other governmental entity or
4 commercial enterprise deemed necessary or desirable for
5 the promotion of economic development in the county.

6 22. To lease space on a telecommunications tower to a
7 public or private entity.

8 23. In counties having a population of 100,000 or less
9 and a public building commission organized by the county
10 seat of the county, to cause to be erected or otherwise
11 provided, and to maintain or cause to be maintained,
12 suitable facilities to house students pursuing a
13 post-secondary education at an academic institution
14 located within the county. The county may provide for the
15 management of the facilities.

16 24. To sell or convey irregular public parcels by
17 ordinance or resolution as provided under Sections 11-76-2
18 and 11-76-4.3 of the Illinois Municipal Code. "Irregular
19 public parcel" means a parcel of vacant land of limited or
20 narrow size or configurations; parcels of irregular size or
21 shape that would be difficult to develop on a planned basis
22 and in a manner compatible with contemporary standards and
23 requirements; or platting that failed to create
24 rights-of-ways for streets or alleys or that created
25 inadequate right-of-way widths for streets, alleys, or
26 other public rights-of-way or that omitted easements for

1 public utilities that is owned by a municipality.

2 All contracts for the purchase of coal under this Section
3 shall be subject to the provisions of "An Act concerning the
4 use of Illinois mined coal in certain plants and institutions",
5 filed July 13, 1937, as amended.

6 (Source: P.A. 95-197, eff. 8-16-07; 95-813, eff. 1-1-09;
7 96-622, eff. 8-24-09.)

8 (55 ILCS 5/5-1121)

9 Sec. 5-1121. Demolition, repair, or enclosure.

10 (a) The county board of each county may demolish, repair,
11 or enclose or cause the demolition, repair, or enclosure of
12 dangerous and unsafe buildings or uncompleted and abandoned
13 buildings within the territory of the county, but outside the
14 territory of any municipality, and may remove or cause the
15 removal of garbage, debris, and other hazardous, noxious, or
16 unhealthy substances or materials from those buildings. If a
17 township within the county makes a formal request to the county
18 board as provided in Section 85-50 of the Township Code that
19 the county board commence specified proceedings under this
20 Section with respect to property located within the township
21 but outside the territory of any municipality, then, at the
22 next regular county board meeting occurring at least 10 days
23 after the formal request is made to the county board, the
24 county board shall either commence the requested proceedings or
25 decline to do so (either formally or by failing to commence the

1 proceedings within 60 days after the request) and shall notify
2 the township board making the request of the county board's
3 decision. In any county having adopted, by referendum or
4 otherwise, a county health department as provided by Division
5 5-25 of the Counties Code or its predecessor, the county board
6 of any such county may upon a formal request by the city,
7 village, or incorporated town demolish, repair or cause the
8 demolition or repair of dangerous and unsafe buildings or
9 uncompleted and abandoned buildings within the territory of any
10 city, village, or incorporated town having a population of less
11 than 50,000.

12 The county board shall apply to the circuit court of the
13 county in which the building is located (i) for an order
14 authorizing action to be taken with respect to a building if
15 the owner or owners of the building, including the lien holders
16 of record, after at least 15 days' written notice by mail to do
17 so, have failed to commence proceedings to put the building in
18 a safe condition or to demolish it or (ii) for an order
19 requiring the owner or owners of record to demolish, repair, or
20 enclose the building or to remove garbage, debris, and other
21 hazardous, noxious, or unhealthy substances or materials from
22 the building. It is not a defense to the cause of action that
23 the building is boarded up or otherwise enclosed, although the
24 court may order the defendant to have the building boarded up
25 or otherwise enclosed. Where, upon diligent search, the
26 identity or whereabouts of the owner or owners of the building,

1 including the lien holders of record, is not ascertainable,
2 notice mailed to the person or persons in whose name the real
3 estate was last assessed and the posting of such notice upon
4 the premises sought to be demolished or repaired is sufficient
5 notice under this Section.

6 The hearing upon the application to the circuit court shall
7 be expedited by the court and shall be given precedence over
8 all other suits.

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

25 The notice must consist of a sworn statement setting out
26 (1) a description of the real estate sufficient for its

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

21 All liens arising under this subsection (a) 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 (b).

25 If the appropriate official of any county determines that
26 any dangerous and unsafe building or uncompleted and abandoned

1 building within its territory fulfills the requirements for an
2 action by the county under the Abandoned Housing Rehabilitation
3 Act, the county may petition under that Act in a proceeding
4 brought under this subsection.

5 (b) In any case where a county has obtained a lien under
6 subsection (a), the county may enforce the lien under this
7 subsection (b) in the same proceeding in which the lien is
8 authorized.

9 A county desiring to enforce a lien under this subsection
10 (b) shall petition the court to retain jurisdiction for
11 foreclosure proceedings under this subsection. Notice of the
12 petition shall be served, by certified or registered mail, on
13 all persons who were served notice under subsection (a). The
14 court shall conduct a hearing on the petition not less than 15
15 days after the notice is served. If the court determines that
16 the requirements of this subsection (b) have been satisfied, it
17 shall grant the petition and retain jurisdiction over the
18 matter until the foreclosure proceeding is completed. The costs
19 of foreclosure incurred by the county, including court costs,
20 reasonable attorneys' fees, advances to preserve the property,
21 and other costs related to the enforcement of this subsection,
22 plus statutory interest, are a lien on the real estate and are
23 recoverable by the county from the owner or owners of the real
24 estate. If the court denies the petition, the county may
25 enforce the lien in a separate action as provided in subsection
26 (a).

1 All persons designated in Section 15-1501 of the Code of
2 Civil Procedure as necessary parties in a mortgage foreclosure
3 action shall be joined as parties before issuance of an order
4 of foreclosure. Persons designated in Section 15-1501 of the
5 Code of Civil Procedure as permissible parties may also be
6 joined as parties in the action.

7 The provisions of Article XV of the Code of Civil Procedure
8 applicable to mortgage foreclosures shall apply to the
9 foreclosure of a lien under this subsection (b), except to the
10 extent that those provisions are inconsistent with this
11 subsection. For purposes of foreclosures of liens under this
12 subsection, however, the redemption period described in
13 subsection (b) of Section 15-1603 of the Code of Civil
14 Procedure shall end 60 days after the date of entry of the
15 order of foreclosure.

16 (c) In addition to any other remedy provided by law, the
17 county board of any county may petition the circuit court to
18 have property declared abandoned under this subsection (c) if:

19 (1) the property has been tax delinquent for 2 or more
20 years or bills for water service for the property have been
21 outstanding for 2 or more years;

22 (2) the property is unoccupied by persons legally in
23 possession; and

24 (3) the petition specifies:

25 (i) the property contains a dangerous or unsafe
26 building; or

1 (ii) the property is not being maintained as shown
2 by the county having to abate a violation more than 3
3 times within a 12-month period.

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

10 The county, however, may proceed under this subsection in a
11 proceeding brought under subsection (a). Notice of the petition
12 shall be served by certified or registered mail on all persons
13 who were served notice under subsection (a).

14 If the county proves that the conditions described in this
15 subsection exist and the owner of record of the property does
16 not enter an appearance in the action, or, if title to the
17 property is held by an Illinois land trust, if neither the
18 owner of record nor the owner of the beneficial interest of the
19 trust enters an appearance, the court shall declare the
20 property abandoned.

21 If that determination is made, notice shall be sent by
22 certified or registered mail to all persons having an interest
23 of record in the property, including tax purchasers and
24 beneficial owners of any Illinois land trust having title to
25 the property, stating that title to the property will be
26 transferred to the county unless, within 30 days of the notice,

1 the owner of record enters an appearance in the action, or
2 unless any other person having an interest in the property
3 files with the court a request to demolish the dangerous or
4 unsafe building or to put the building in safe condition.

5 If the owner of record enters an appearance in the action
6 within the 30 day period, the court shall vacate its order
7 declaring the property abandoned. In that case, the county may
8 amend its complaint in order to initiate proceedings under
9 subsection (a).

10 If a request to demolish or repair the building is filed
11 within the 30 day period, the court shall grant permission to
12 the requesting party to demolish the building within 30 days or
13 to restore the building to safe condition within 60 days after
14 the request is granted. An extension of that period for up to
15 60 additional days may be given for good cause. If more than
16 one person with an interest in the property files a timely
17 request, preference shall be given to the person with the lien
18 or other interest of the highest priority.

19 If the requesting party proves to the court that the
20 building has been demolished or put in a safe condition within
21 the period of time granted by the court, the court shall issue
22 a quitclaim judicial deed for the property to the requesting
23 party, conveying only the interest of the owner of record, upon
24 proof of payment to the county of all costs incurred by the
25 county in connection with the action, including but not limited
26 to court costs, attorney's fees, administrative costs, the

1 costs, if any, associated with building enclosure or removal,
2 and receiver's certificates. The interest in the property so
3 conveyed shall be subject to all liens and encumbrances on the
4 property. In addition, if the interest is conveyed to a person
5 holding a certificate of purchase for the property under the
6 Property Tax Code, the conveyance shall be subject to the
7 rights of redemption of all persons entitled to redeem under
8 that Act, including the original owner of record.

9 If no person with an interest in the property files a
10 timely request or if the requesting party fails to demolish the
11 building or put the building in safe condition within the time
12 specified by the court, the county may petition the court to
13 issue a judicial deed for the property to the county. A
14 conveyance by judicial deed shall operate to extinguish all
15 existing ownership interests in, liens on, and other interest
16 in the property, including tax liens.

17 (d) Each county may use the provisions of this subsection
18 to expedite the removal of certain buildings that are a
19 continuing hazard to the community in which they are located.

20 If the official designated to be in charge of enforcing the
21 county's building code determines that a building is open and
22 vacant and an immediate and continuing hazard to the community
23 in which the building is located, then the official shall be
24 authorized to post a notice not less than 2 feet by 2 feet in
25 size on the front of the building. The notice shall be dated as
26 of the date of the posting and shall state that unless the

1 building is demolished, repaired, or enclosed, and unless any
2 garbage, debris, and other hazardous, noxious, or unhealthy
3 substances or materials are removed so that an immediate and
4 continuing hazard to the community no longer exists, then the
5 building may be demolished, repaired, or enclosed, or any
6 garbage, debris, and other hazardous, noxious, or unhealthy
7 substances or materials may be removed, by the county.

8 Not later than 30 days following the posting of the notice,
9 the county shall do both of the following:

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

19 (2) Cause to be published, in a newspaper published or
20 circulated in the county where the building is located, a
21 notice setting forth (i) the permanent tax index number and
22 the address of the building, (ii) a statement that the
23 property is open and vacant and constitutes an immediate
24 and continuing hazard to the community, and (iii) a
25 statement that the county intends to demolish, repair, or
26 enclose the building or remove any garbage, debris, or

1 other hazardous, noxious, or unhealthy substances or
2 materials if the owner or owners or lienholders of record
3 fail to do so. This notice shall be published for 3
4 consecutive days.

5 A person objecting to the proposed actions of the county
6 board may file his or her objection in an appropriate form in a
7 court of competent jurisdiction.

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

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

1 and continuing hazard. If, however, before the county proceeds
2 with any of the actions authorized by this subsection, any
3 person has sought a hearing under this subsection before a
4 court and has served a copy of the complaint on the chief
5 executive officer of the county, then the county shall not
6 proceed with the demolition, repair, enclosure, or removal of
7 garbage, debris, or other substances until the court determines
8 that that action is necessary to remedy the hazard and issues
9 an order authorizing the county to do so.

10 Following the demolition, repair, or enclosure of a
11 building, or the removal of garbage, debris, or other
12 hazardous, noxious, or unhealthy substances or materials under
13 this subsection, the county may file a notice of lien against
14 the real estate for the cost of the demolition, repair,
15 enclosure, or removal within 180 days after the repair,
16 demolition, enclosure, or removal occurred, for the cost and
17 expense incurred, in the office of the recorder in the county
18 in which the real estate is located or in the office of the
19 registrar of titles of the county if the real estate affected
20 is registered under the Registered Titles (Torrens) Act. The
21 notice of lien shall consist of a sworn statement setting forth
22 (i) a description of the real estate, such as the address or
23 other description of the property, sufficient for its
24 identification; (ii) the expenses incurred by the county in
25 undertaking the remedial actions authorized under this
26 subsection; (iii) the date or dates the expenses were incurred

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

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

20 (Source: P.A. 97-549, eff. 8-25-11; 98-138, eff. 8-2-13.)

21 Section 10. The Illinois Municipal Code is amended by
22 changing Section 11-31-1 and by adding Section 11-76-4.3 as
23 follows:

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

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

3 (a) The corporate authorities of each municipality may
4 demolish, repair, or enclose or cause the demolition, repair,
5 or enclosure of dangerous and unsafe buildings or uncompleted
6 and abandoned buildings within the territory of the
7 municipality and may remove or cause the removal of garbage,
8 debris, and other hazardous, noxious, or unhealthy substances
9 or materials from those buildings. In any county having adopted
10 by referendum or otherwise a county health department as
11 provided by Division 5-25 of the Counties Code or its
12 predecessor, the county board of that county may exercise those
13 powers with regard to dangerous and unsafe buildings or
14 uncompleted and abandoned buildings within the territory of any
15 city, village, or incorporated town having less than 50,000
16 population.

17 The corporate authorities shall apply to the circuit court
18 of the county in which the building is located (i) for an order
19 authorizing action to be taken with respect to a building if
20 the owner or owners of the building, including the lien holders
21 of record, after at least 15 days' written notice by mail so to
22 do, have failed to put the building in a safe condition or to
23 demolish it or (ii) for an order requiring the owner or owners
24 of record to demolish, repair, or enclose the building or to
25 remove garbage, debris, and other hazardous, noxious, or
26 unhealthy substances or materials from the building. It is not

1 a defense to the cause of action that the building is boarded
2 up or otherwise enclosed, although the court may order the
3 defendant to have the building boarded up or otherwise
4 enclosed. Where, upon diligent search, the identity or
5 whereabouts of the owner or owners of the building, including
6 the lien holders of record, is not ascertainable, notice mailed
7 to the person or persons in whose name the real estate was last
8 assessed is sufficient notice under this Section.

9 The hearing upon the application to the circuit court shall
10 be expedited by the court and shall be given precedence over
11 all other suits. Any person entitled to bring an action under
12 subsection (b) shall have the right to intervene in an action
13 brought under this Section.

14 The cost of the demolition, repair, enclosure, or removal
15 incurred by the municipality, by an intervenor, or by a lien
16 holder of record, including court costs, attorney's fees, and
17 other costs related to the enforcement of this Section, is
18 recoverable from the owner or owners of the real estate or the
19 previous owner or both if the property was transferred during
20 the 15 day notice period and is a lien on the real estate; the
21 lien is superior to all prior existing liens and encumbrances,
22 except taxes, if, within 180 days after the repair, demolition,
23 enclosure, or removal, the municipality, the lien holder of
24 record, or the intervenor who incurred the cost and expense
25 shall file a notice of lien for the cost and expense incurred
26 in the office of the recorder in the county in which the real

1 estate is located or in the office of the registrar of titles
2 of the county if the real estate affected is registered under
3 the Registered Titles (Torrens) Act.

4 The notice must consist of a sworn statement setting out
5 (1) a description of the real estate sufficient for its
6 identification, (2) the amount of money representing the cost
7 and expense incurred, and (3) the date or dates when the cost
8 and expense was incurred by the municipality, the lien holder
9 of record, or the intervenor. Upon payment of the cost and
10 expense by the owner of or persons interested in the property
11 after the notice of lien has been filed, the lien shall be
12 released by the municipality, the person in whose name the lien
13 has been filed, or the assignee of the lien, and the release
14 may be filed of record as in the case of filing notice of lien.
15 Unless the lien is enforced under subsection (c), the lien may
16 be enforced by foreclosure proceedings as in the case of
17 mortgage foreclosures under Article XV of the Code of Civil
18 Procedure or mechanics' lien foreclosures. An action to
19 foreclose this lien may be commenced at any time after the date
20 of filing of the notice of lien. The costs of foreclosure
21 incurred by the municipality, including court costs,
22 reasonable attorney's fees, advances to preserve the property,
23 and other costs related to the enforcement of this subsection,
24 plus statutory interest, are a lien on the real estate and are
25 recoverable by the municipality from the owner or owners of the
26 real estate.

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

5 If the appropriate official of any municipality determines
6 that any dangerous and unsafe building or uncompleted and
7 abandoned building within its territory fulfills the
8 requirements for an action by the municipality under the
9 Abandoned Housing Rehabilitation Act, the municipality may
10 petition under that Act in a proceeding brought under this
11 subsection.

12 (b) Any owner or tenant of real property within 1200 feet
13 in any direction of any dangerous or unsafe building located
14 within the territory of a municipality with a population of
15 500,000 or more may file with the appropriate municipal
16 authority a request that the municipality apply to the circuit
17 court of the county in which the building is located for an
18 order permitting the demolition, removal of garbage, debris,
19 and other noxious or unhealthy substances and materials from,
20 or repair or enclosure of the building in the manner prescribed
21 in subsection (a) of this Section. If the municipality fails to
22 institute an action in circuit court within 90 days after the
23 filing of the request, the owner or tenant of real property
24 within 1200 feet in any direction of the building may institute
25 an action in circuit court seeking an order compelling the
26 owner or owners of record to demolish, remove garbage, debris,

1 and other noxious or unhealthy substances and materials from,
2 repair or enclose or to cause to be demolished, have garbage,
3 debris, and other noxious or unhealthy substances and materials
4 removed from, repaired, or enclosed the building in question. A
5 private owner or tenant who institutes an action under the
6 preceding sentence shall not be required to pay any fee to the
7 clerk of the circuit court. The cost of repair, removal,
8 demolition, or enclosure shall be borne by the owner or owners
9 of record of the building. In the event the owner or owners of
10 record fail to demolish, remove garbage, debris, and other
11 noxious or unhealthy substances and materials from, repair, or
12 enclose the building within 90 days of the date the court
13 entered its order, the owner or tenant who instituted the
14 action may request that the court join the municipality as a
15 party to the action. The court may order the municipality to
16 demolish, remove materials from, repair, or enclose the
17 building, or cause that action to be taken upon the request of
18 any owner or tenant who instituted the action or upon the
19 municipality's request. The municipality may file, and the
20 court may approve, a plan for rehabilitating the building in
21 question. A court order authorizing the municipality to
22 demolish, remove materials from, repair, or enclose a building,
23 or cause that action to be taken, shall not preclude the court
24 from adjudging the owner or owners of record of the building in
25 contempt of court due to the failure to comply with the order
26 to demolish, remove garbage, debris, and other noxious or

1 unhealthy substances and materials from, repair, or enclose the
2 building.

3 If a municipality or a person or persons other than the
4 owner or owners of record pay the cost of demolition, removal
5 of garbage, debris, and other noxious or unhealthy substances
6 and materials, repair, or enclosure pursuant to a court order,
7 the cost, including court costs, attorney's fees, and other
8 costs related to the enforcement of this subsection, is
9 recoverable from the owner or owners of the real estate and is
10 a lien on the real estate; the lien is superior to all prior
11 existing liens and encumbrances, except taxes, if, within 180
12 days after the repair, removal, demolition, or enclosure, the
13 municipality or the person or persons who paid the costs of
14 demolition, removal, repair, or enclosure shall file a notice
15 of lien of the cost and expense incurred in the office of the
16 recorder in the county in which the real estate is located or
17 in the office of the registrar of the county if the real estate
18 affected is registered under the Registered Titles (Torrens)
19 Act. The notice shall be in a form as is provided in subsection
20 (a). An owner or tenant who institutes an action in circuit
21 court seeking an order to compel the owner or owners of record
22 to demolish, remove materials from, repair, or enclose any
23 dangerous or unsafe building, or to cause that action to be
24 taken under this subsection may recover court costs and
25 reasonable attorney's fees for instituting the action from the
26 owner or owners of record of the building. Upon payment of the

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

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

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

26 A municipality desiring to enforce a lien under this

1 subsection (c) shall petition the court to retain jurisdiction
2 for foreclosure proceedings under this subsection. Notice of
3 the petition shall be served, by certified or registered mail,
4 on all persons who were served notice under subsection (a),
5 (b), or (f). The court shall conduct a hearing on the petition
6 not less than 15 days after the notice is served. If the court
7 determines that the requirements of this subsection (c) have
8 been satisfied, it shall grant the petition and retain
9 jurisdiction over the matter until the foreclosure proceeding
10 is completed. The costs of foreclosure incurred by the
11 municipality, including court costs, reasonable attorneys'
12 fees, advances to preserve the property, and other costs
13 related to the enforcement of this subsection, plus statutory
14 interest, are a lien on the real estate and are recoverable by
15 the municipality from the owner or owners of the real estate.
16 If the court denies the petition, the municipality may enforce
17 the lien in a separate action as provided in subsection (a),
18 (b), or (f).

19 All persons designated in Section 15-1501 of the Code of
20 Civil Procedure as necessary parties in a mortgage foreclosure
21 action shall be joined as parties before issuance of an order
22 of foreclosure. Persons designated in Section 15-1501 of the
23 Code of Civil Procedure as permissible parties may also be
24 joined as parties in the action.

25 The provisions of Article XV of the Code of Civil Procedure
26 applicable to mortgage foreclosures shall apply to the

1 foreclosure of a lien under this subsection (c), except to the
2 extent that those provisions are inconsistent with this
3 subsection. For purposes of foreclosures of liens under this
4 subsection, however, the redemption period described in
5 subsection (b) of Section 15-1603 of the Code of Civil
6 Procedure shall end 60 days after the date of entry of the
7 order of foreclosure.

8 (d) In addition to any other remedy provided by law, the
9 corporate authorities of any municipality may petition the
10 circuit court to have property declared abandoned under this
11 subsection (d) if:

12 (1) the property has been tax delinquent for 2 or more
13 years or bills for water service for the property have been
14 outstanding for 2 or more years;

15 (2) the property is unoccupied by persons legally in
16 possession; and

17 (3) the petition specifies:

18 (i) the property contains a dangerous or unsafe
19 building; or

20 (ii) the property is not being maintained as shown
21 by the municipality having to abate a violation more
22 than 3 times within a 12-month period ~~for reasons~~
23 ~~specified in the petition.~~

24 All persons having an interest of record in the property,
25 including tax purchasers and beneficial owners of any Illinois
26 land trust having title to the property, shall be named as

1 defendants in the petition and shall be served with process. In
2 addition, service shall be had under Section 2-206 of the Code
3 of Civil Procedure as in other cases affecting property.

4 The municipality, however, may proceed under this
5 subsection in a proceeding brought under subsection (a) or (b).
6 Notice of the petition shall be served in person or by
7 certified or registered mail on all persons who were served
8 notice under subsection (a) or (b).

9 If the municipality proves that the conditions described in
10 this subsection exist and (i) the owner of record of the
11 property does not enter an appearance in the action, or, if
12 title to the property is held by an Illinois land trust, if
13 neither the owner of record nor the owner of the beneficial
14 interest of the trust enters an appearance, or (ii) if the
15 owner of record or the beneficiary of a land trust, if title to
16 the property is held by an Illinois land trust, enters an
17 appearance and specifically waives his or her rights under this
18 subsection (d), the court shall declare the property abandoned.
19 Notwithstanding any waiver, the municipality may move to
20 dismiss its petition at any time. In addition, any waiver in a
21 proceeding under this subsection (d) does not serve as a waiver
22 for any other proceeding under law or equity.

23 If that determination is made, notice shall be sent in
24 person or by certified or registered mail to all persons having
25 an interest of record in the property, including tax purchasers
26 and beneficial owners of any Illinois land trust having title

1 to the property, stating that title to the property will be
2 transferred to the municipality unless, within 30 days of the
3 notice, the owner of record or any other person having an
4 interest in the property files with the court a request to
5 demolish the dangerous or unsafe building or to put the
6 building in safe condition, or unless the owner of record
7 enters an appearance and proves that the owner does not intend
8 to abandon the property.

9 If the owner of record enters an appearance in the action
10 within the 30 day period, but does not at that time file with
11 the court a request to demolish the dangerous or unsafe
12 building or to put the building in safe condition, or
13 specifically waive his or her rights under this subsection (d),
14 the court shall vacate its order declaring the property
15 abandoned if it determines that the owner of record does not
16 intend to abandon the property. In that case, the municipality
17 may amend its complaint in order to initiate proceedings under
18 subsection (a), or it may request that the court order the
19 owner to demolish the building or repair the dangerous or
20 unsafe conditions of the building alleged in the petition or
21 seek the appointment of a receiver or other equitable relief to
22 correct the conditions at the property. The powers and rights
23 of a receiver appointed under this subsection (d) shall include
24 all of the powers and rights of a receiver appointed under
25 Section 11-31-2 of this Code.

26 If a request to demolish or repair the building is filed

1 within the 30 day period, the court shall grant permission to
2 the requesting party to demolish the building within 30 days or
3 to restore the building to safe condition within 60 days after
4 the request is granted. An extension of that period for up to
5 60 additional days may be given for good cause. If more than
6 one person with an interest in the property files a timely
7 request, preference shall be given to the owner of record if
8 the owner filed a request or, if the owner did not, the person
9 with the lien or other interest of the highest priority.

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

1 original owner of record. If the requesting party is the owner
2 of record and proves to the court that the building has been
3 demolished or put in a safe condition in accordance with the
4 local safety codes within the period of time granted by the
5 court, the court shall dismiss the proceeding under this
6 subsection (d).

7 If the owner of record has not entered an appearance and
8 proven that the owner did not intend to abandon the property,
9 and if no person with an interest in the property files a
10 timely request or if the requesting party fails to demolish the
11 building or put the building in safe condition within the time
12 specified by the court, the municipality may petition the court
13 to issue a judicial deed for the property to the municipality.
14 A conveyance by judicial deed shall operate to extinguish all
15 existing ownership interests in, liens on, and other interest
16 in the property, including tax liens, and shall extinguish the
17 rights and interests of any and all holders of a bona fide
18 certificate of purchase of the property for delinquent taxes.
19 Any such bona fide certificate of purchase holder shall be
20 entitled to a sale in error as prescribed under Section 21-310
21 of the Property Tax Code.

22 (e) Each municipality may use the provisions of this
23 subsection to expedite the removal of certain buildings that
24 are a continuing hazard to the community in which they are
25 located.

26 If a residential or commercial building is 3 stories or

1 less in height as defined by the municipality's building code,
2 and the corporate official designated to be in charge of
3 enforcing the municipality's building code determines that the
4 building is open and vacant and an immediate and continuing
5 hazard to the community in which the building is located, then
6 the official shall be authorized to post a notice not less than
7 2 feet by 2 feet in size on the front of the building. The
8 notice shall be dated as of the date of the posting and shall
9 state that unless the building is demolished, repaired, or
10 enclosed, and unless any garbage, debris, and other hazardous,
11 noxious, or unhealthy substances or materials are removed so
12 that an immediate and continuing hazard to the community no
13 longer exists, then the building may be demolished, repaired,
14 or enclosed, or any garbage, debris, and other hazardous,
15 noxious, or unhealthy substances or materials may be removed,
16 by the municipality.

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

- 19 (1) Cause to be sent, by certified mail, return receipt
20 requested, a Notice to Remediate to all owners of record of
21 the property, the beneficial owners of any Illinois land
22 trust having title to the property, and all lienholders of
23 record in the property, stating the intent of the
24 municipality to demolish, repair, or enclose the building
25 or remove any garbage, debris, or other hazardous, noxious,
26 or unhealthy substances or materials if that action is not

1 taken by the owner or owners.

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

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

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

23 If the building is not demolished, repaired, or enclosed,
24 or the garbage, debris, or other hazardous, noxious, or
25 unhealthy substances or materials are not removed, within 30
26 days of mailing the notice to the owners of record, the

1 beneficial owners of any Illinois land trust having title to
2 the property, and all lienholders of record in the property, or
3 within 30 days of the last day of publication of the notice,
4 whichever is later, the corporate authorities shall have the
5 power to demolish, repair, or enclose the building or to remove
6 any garbage, debris, or other hazardous, noxious, or unhealthy
7 substances or materials.

8 The municipality may proceed to demolish, repair, or
9 enclose a building or remove any garbage, debris, or other
10 hazardous, noxious, or unhealthy substances or materials under
11 this subsection within a 120-day period following the date of
12 the mailing of the notice if the appropriate official
13 determines that the demolition, repair, enclosure, or removal
14 of any garbage, debris, or other hazardous, noxious, or
15 unhealthy substances or materials is necessary to remedy the
16 immediate and continuing hazard. If, however, before the
17 municipality proceeds with any of the actions authorized by
18 this subsection, any person with a legal or equitable interest
19 in the property has sought a hearing under this subsection
20 before a court and has served a copy of the complaint on the
21 chief executive officer of the municipality, then the
22 municipality shall not proceed with the demolition, repair,
23 enclosure, or removal of garbage, debris, or other substances
24 until the court determines that that action is necessary to
25 remedy the hazard and issues an order authorizing the
26 municipality to do so. If the court dismisses the action for

1 want of prosecution, the municipality must send the objector a
2 copy of the dismissal order and a letter stating that the
3 demolition, repair, enclosure, or removal of garbage, debris,
4 or other substances will proceed unless, within 30 days after
5 the copy of the order and the letter are mailed, the objector
6 moves to vacate the dismissal and serves a copy of the motion
7 on the chief executive officer of the municipality.
8 Notwithstanding any other law to the contrary, if the objector
9 does not file a motion and give the required notice, if the
10 motion is denied by the court, or if the action is again
11 dismissed for want of prosecution, then the dismissal is with
12 prejudice and the demolition, repair, enclosure, or removal may
13 proceed forthwith.

14 Following the demolition, repair, or enclosure of a
15 building, or the removal of garbage, debris, or other
16 hazardous, noxious, or unhealthy substances or materials under
17 this subsection, the municipality may file a notice of lien
18 against the real estate for the cost of the demolition, repair,
19 enclosure, or removal within 180 days after the repair,
20 demolition, enclosure, or removal occurred, for the cost and
21 expense incurred, in the office of the recorder in the county
22 in which the real estate is located or in the office of the
23 registrar of titles of the county if the real estate affected
24 is registered under the Registered Titles (Torrens) Act; this
25 lien has priority over the interests of those parties named in
26 the Notice to Remediate mailed under paragraph (1), but not

1 over the interests of third party purchasers or encumbrancers
2 for value who obtained their interests in the property before
3 obtaining actual or constructive notice of the lien. The notice
4 of lien shall consist of a sworn statement setting forth (i) a
5 description of the real estate, such as the address or other
6 description of the property, sufficient for its
7 identification; (ii) the expenses incurred by the municipality
8 in undertaking the remedial actions authorized under this
9 subsection; (iii) the date or dates the expenses were incurred
10 by the municipality; (iv) a statement by the corporate official
11 responsible for enforcing the building code that the building
12 was open and vacant and constituted an immediate and continuing
13 hazard to the community; (v) a statement by the corporate
14 official that the required sign was posted on the building,
15 that notice was sent by certified mail to the owners of record,
16 and that notice was published in accordance with this
17 subsection; and (vi) a statement as to when and where the
18 notice was published. The lien authorized by this subsection
19 may thereafter be released or enforced by the municipality as
20 provided in subsection (a).

21 (f) The corporate authorities of each municipality may
22 remove or cause the removal of, or otherwise environmentally
23 remediate hazardous substances and petroleum products on, in,
24 or under any abandoned and unsafe property within the territory
25 of a municipality. In addition, where preliminary evidence
26 indicates the presence or likely presence of a hazardous

1 substance or a petroleum product or a release or a substantial
2 threat of a release of a hazardous substance or a petroleum
3 product on, in, or under the property, the corporate
4 authorities of the municipality may inspect the property and
5 test for the presence or release of hazardous substances and
6 petroleum products. In any county having adopted by referendum
7 or otherwise a county health department as provided by Division
8 5-25 of the Counties Code or its predecessor, the county board
9 of that county may exercise the above-described powers with
10 regard to property within the territory of any city, village,
11 or incorporated town having less than 50,000 population.

12 For purposes of this subsection (f):

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

15 (2) "abandoned" means;

16 (A) the property has been tax delinquent for 2 or
17 more years;

18 (B) the property is unoccupied by persons legally
19 in possession; and

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

23 (4) "hazardous substances" means the same as in Section
24 3.215 of the Environmental Protection Act.

25 The corporate authorities shall apply to the circuit court
26 of the county in which the property is located (i) for an order

1 allowing the municipality to enter the property and inspect and
2 test substances on, in, or under the property; or (ii) for an
3 order authorizing the corporate authorities to take action with
4 respect to remediation of the property if conditions on the
5 property, based on the inspection and testing authorized in
6 paragraph (i), indicate the presence of hazardous substances or
7 petroleum products. Remediation shall be deemed complete for
8 purposes of paragraph (ii) above when the property satisfies
9 Tier I, II, or III remediation objectives for the property's
10 most recent usage, as established by the Environmental
11 Protection Act, and the rules and regulations promulgated
12 thereunder. Where, upon diligent search, the identity or
13 whereabouts of the owner or owners of the property, including
14 the lien holders of record, is not ascertainable, notice mailed
15 to the person or persons in whose name the real estate was last
16 assessed is sufficient notice under this Section.

17 The court shall grant an order authorizing testing under
18 paragraph (i) above upon a showing of preliminary evidence
19 indicating the presence or likely presence of a hazardous
20 substance or a petroleum product or a release of or a
21 substantial threat of a release of a hazardous substance or a
22 petroleum product on, in, or under abandoned property. The
23 preliminary evidence may include, but is not limited to,
24 evidence of prior use, visual site inspection, or records of
25 prior environmental investigations. The testing authorized by
26 paragraph (i) above shall include any type of investigation

1 which is necessary for an environmental professional to
2 determine the environmental condition of the property,
3 including but not limited to performance of soil borings and
4 groundwater monitoring. The court shall grant a remediation
5 order under paragraph (ii) above where testing of the property
6 indicates that it fails to meet the applicable remediation
7 objectives. The hearing upon the application to the circuit
8 court shall be expedited by the court and shall be given
9 precedence over all other suits.

10 The cost of the inspection, testing, or remediation
11 incurred by the municipality or by a lien holder of record,
12 including court costs, attorney's fees, and other costs related
13 to the enforcement of this Section, is a lien on the real
14 estate; except that in any instances where a municipality
15 incurs costs of inspection and testing but finds no hazardous
16 substances or petroleum products on the property that present
17 an actual or imminent threat to public health and safety, such
18 costs are not recoverable from the owners nor are such costs a
19 lien on the real estate. The lien is superior to all prior
20 existing liens and encumbrances, except taxes and any lien
21 obtained under subsection (a) or (e), if, within 180 days after
22 the completion of the inspection, testing, or remediation, the
23 municipality or the lien holder of record who incurred the cost
24 and expense shall file a notice of lien for the cost and
25 expense incurred in the office of the recorder in the county in
26 which the real estate is located or in the office of the

1 registrar of titles of the county if the real estate affected
2 is registered under the Registered Titles (Torrens) Act.

3 The notice must consist of a sworn statement setting out
4 (i) a description of the real estate sufficient for its
5 identification, (ii) the amount of money representing the cost
6 and expense incurred, and (iii) the date or dates when the cost
7 and expense was incurred by the municipality or the lien holder
8 of record. Upon payment of the lien amount by the owner of or
9 persons interested in the property after the notice of lien has
10 been filed, a release of lien shall be issued by the
11 municipality, the person in whose name the lien has been filed,
12 or the assignee of the lien, and the release may be filed of
13 record as in the case of filing notice of lien.

14 The lien may be enforced under subsection (c) or by
15 foreclosure proceedings as in the case of mortgage foreclosures
16 under Article XV of the Code of Civil Procedure or mechanics'
17 lien foreclosures; provided that where the lien is enforced by
18 foreclosure under subsection (c) or under either statute, the
19 municipality may not proceed against the other assets of the
20 owner or owners of the real estate for any costs that otherwise
21 would be recoverable under this Section but that remain
22 unsatisfied after foreclosure except where such additional
23 recovery is authorized by separate environmental laws. An
24 action to foreclose this lien may be commenced at any time
25 after the date of filing of the notice of lien. The costs of
26 foreclosure incurred by the municipality, including court

1 costs, reasonable attorney's fees, advances to preserve the
2 property, and other costs related to the enforcement of this
3 subsection, plus statutory interest, are a lien on the real
4 estate.

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

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

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

19 (65 ILCS 5/11-76-4.3 new)

20 Sec. 11-76-4.3. Irregular parcels; method of sale or
21 transfer.

22 (a) For purposes of this Section:

23 "Irregular public parcel" means a parcel of vacant land of
24 limited or narrow size or configurations; parcels of irregular
25 size or shape that would be difficult to develop on a planned

1 basis and in a manner compatible with contemporary standards
2 and requirements; or platting that failed to create
3 rights-of-ways for streets or alleys or that created inadequate
4 right-of-way widths for streets, alleys, or other public
5 rights-of-way or that omitted easements for public utilities
6 that is owned by a municipality.

7 (b) The corporate authorities of a municipality by
8 resolution may authorize the sale or public auction of an
9 irregular public parcel. The value of the real estate shall be
10 determined by a written MAI certified appraisal or by a written
11 certified appraisal of a State certified or licensed real
12 estate appraiser. The appraisal shall be available for public
13 inspection. The resolution may direct the sale to be conducted
14 by the staff of the municipality; by listing with local
15 licensed real estate agencies, in which case the terms of the
16 agent's compensation shall be included in the resolution; or by
17 public auction. The resolution shall be published at the first
18 opportunity following its passage in a newspaper published in
19 the municipality or, if none, then in a newspaper published in
20 the county where the municipality is located. The resolution
21 shall also contain pertinent information concerning the size,
22 use, and zoning of the real estate and the terms of sale. The
23 corporate authorities may accept any contract proposal
24 determined by them to be in the best interest of the
25 municipality by a vote of two-thirds of the corporate
26 authorities then holding office.

1 (c) If a municipality has either:

2 (1) adopted an ordinance to sell an irregular public
3 parcel under Section 11-76-2 and has received no bid on the
4 irregular public parcel, or

5 (2) adopted a resolution to sell an irregular public
6 parcel under subsection (b) of this Section and has
7 received no offer on an irregular public parcel within 6
8 months after adoption of the resolution,

9 then that irregular public parcel may be transferred at no cost
10 to any adjoining property owner of the irregular public parcel
11 by ordinance of the corporate authorities of the municipality
12 by two-thirds vote.

13 (d) When the ordinance to transfer an irregular public
14 parcel at no cost has been adopted and passed pursuant to
15 subsection (c) of this Section, the mayor or president, and the
16 municipal clerk, may convey the irregular public parcel by
17 proper deed of conveyance, stating therein the consideration
18 therefor, with the seal of the municipality.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.