

# MUNICIPAL LIENS

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# Types of Municipal Charges that may be converted into Municipal Liens

- Taxes N.J.S.A. 54:5-6
- Assessment on Improvement N.J.S.A. 54:5-7 & N.J.S.A. 40:56-33
- Sidewalk Improvements
- Abatement of Nuisance & Demolition Liens N.J.S.A. 40:48-2.5
- Unpaid Water N.J.S.A. 40A:31-12
- Unpaid Sewer N.J.S.A. 40:4B-42 & N.J.S.A. 40A-26A-12
- Removing Brush, Weeds, Debris N.J.S.A. 40:48-2.14 & N.J.S.A. 40:48-2.27
- Removal of Snow & Ice from Sidewalks; Removal of Grass, Weeds N.J.S.A. 40:65-12, 13

In order to turn a Municipal Charge into a Municipal Lien there must be a statute authorizing the charge to be converted into a lien and that statute must be strictly complied with

# TAXES

## § 54:5-6. Unpaid taxes a continuous lien; penalties and costs

Taxes on lands and payments in lieu of property taxes pursuant to section 3 of P.L.2016, c.5 (C.52:27BBBB-20) shall be a continuous lien on the land on which they are assessed and all subsequent taxes, or payments in lieu of property taxes pursuant to section 3 of P.L.2016, c.5 (C.52:27BBBB-20), as appropriate, interest, penalties and costs of collection which thereafter fall due or accrue shall be added to and be part of such initial lien.

Automatic Perfection

A MUNICIPAL LIEN IS  
SECURED AGAINST THE  
REAL ESTATE WHEREIN A  
MUNICIPAL CHARGE IS  
UNSECURED

Very Important In Bankruptcy

# DEMOLITION LIENS

§ 40:48-2.5. Repair, closing or demolition; ordinance; authorization for order of public officer; summary proceedings to demolish unsafe building

Upon the adoption of a resolution finding that building conditions of the character described in section 1 hereof exist within a municipality, the governing body of such municipality is hereby authorized to adopt an ordinance relating to buildings within such municipality which are unfit for human habitation or occupancy or use. Such ordinance shall include the following provisions:

(a) That a public officer be designated or appointed to exercise the powers prescribed by the ordinance.

(b) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the municipality charging that any building is unfit for human habitation or occupancy or use or whenever it appears to the public officer (on his own motion) that any building is unfit for human habitation or occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges that respect and containing a notice that **a hearing will be held before the public officer (or his designated agent) at a place therein fixed not less than 7 days nor more than 30 days after the serving of said complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the public officer.**

(f) That the amount of

(1) the cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges, incurred in the course of any proceeding taken under this act determined in favor of the municipality, and

(2) such cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any,

or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, **shall be a municipal lien against the real property upon which such cost was incurred.** If the building is removed or demolished by the public officer, he shall sell the materials of such building. There shall be credited against the cost of removal or demolition thereof, including the clearance and, if necessary, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the municipal tax assessor or other custodian of records of tax liens and a copy thereof shall be forthwith

# COMMON MISTAKES

Code enforcement officer fails to comply with Demolition Lien Law and issues notices under Uniform Construction Code and therefore cannot lien the property

Case law requires strict compliance with Demolition Lien Law

# CASES

Hepner v. Township of Lawrence, 115 N.J. Super. 155  
(App. Div. 1971)

Demolition lien void when Township failed to notify holder of tax sale certificate who was a party in interest

Garden State v. City of Vineland, 368 N.J. Super. 369  
(App. Div. 2004)

City only gave record owner notice and demolished property while third-party lienholder was paying subs. No notice to third-party lienholder who was a party in interest. City had to refund monies paid to holder of tax sale certificate.

21-23 Seidler Associates v. City of Jersey City,  
391 N.J. Super. 201 (App. Div. 2007)

Demolition liens void because City **must strictly comply with every stage of the Demolition Lien Law**

Gamba v. Township of Brick, 395 N.J. Super. 143  
(App. Div. 2007)

Owner was not given proper notice. 6 days instead of 7. Not told of right to file Answer. House was demolished and owner was allowed to sue Brick for damages.

# COMMON MISTAKES

1. Following Uniform Construction Code rather than Demolition Lien Law.
2. Not providing notice to all parties in interest – may require a title search.
3. Not adopting an ordinance.
4. Not providing a hearing.
5. Not strictly complying with notice requirements.
6. Not acting in a timely manner.
7. Not following statute in emergencies.

# SEWER LIEN

§ 40A:26A-12. Rates, rentals, connection fees, or other charges as lien on real property; discontinuance of service

- a. Rates, rentals, connection fees or other charges levied in accordance with N.J.S.40A:26A-10 and 40A:26A-11, shall be a first lien or charge against the property benefited therefrom. If any part of the amount due and payable in rates, rentals, connection fees or other charges remain unpaid for 30 days following the date for the payment thereof, interest upon the amount unpaid shall accrue at a rate of interest to be determined in accordance with N.J.S. 40A:26A-17. The governing body or bodies of the local unit or units may authorize payment of delinquent assessments on an installment basis in accordance with R.S.54:5-19. **Liens levied in accordance with this section shall be enforceable in the manner provided for real property tax liens in chapter 5 of Title 54 of the Revised Statutes.**
- b. Nothing in this section shall be construed to limit the right of a local unit or local units to discontinue service of any property for the failure to pay any amount owing within 30 days after the date the amount is due and payable, if written notice of the proposed discontinuance of service and of the reasons therefore has been given, within at least 10 days prior to the date of discontinuance, to the owner of record of the property. In the event that notice is provided by mail, the notice requirements shall be satisfied if the mailing is made to the last known address of the owner of record and is postmarked at least 10 days prior to the date of discontinuance.

# WATER LIENS

§ 40A:31-12. Rates, rentals, connection fees or other charges as lien on real property; discontinuance of service

- a. Rates, rentals, connection fees or other charges levied in accordance with N.J.S.40A:31-10 and 40A:31-11, shall be a first lien or charge against the property benefited therefrom. If any part of the amount due and payable in rates, rentals, connection fees or other charges remains unpaid for 30 days following the date for the payment thereof, interest upon the amount unpaid shall accrue at a rate of interest to be determined in accordance with N.J.S. 40A:31-17. The governing body or bodies of the local unit or units may authorize payment of delinquent assessments on an installment basis in accordance with R.S.54:5-19. Liens levied in accordance with this section shall be enforceable in the manner provided for real property tax liens in chapter 5 of Title 54 of the Revised Statutes.
- b. Nothing in this section shall be construed to limit the right of a local unit or local units to discontinue service to any property for the failure to pay any amount owing within 30 days after the date the amount is due and payable, if written notice of the proposed discontinuance of service and of the reasons therefore has been given, within at least 10 days prior to the date of discontinuance, to the owner of record of the property. In the event that notice is provided by mail, the notice requirements shall be satisfied if the mailing is made to the last known address of the owner of record and is postmarked at least 10 days prior to the date of discontinuance.

# SEWER AND WATER LIENS

## § 40:14B-42. Lien for service charge

a. In the event that a service charge of any municipal authority with regard to any parcel of real property owned by any person other than the State or an agency or subdivision thereof shall not be paid as and when due, the unpaid balance thereof and all interest accruing thereon shall be a lien on such parcel. Such lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person except the lien of municipal taxes and shall be on a parity with and deemed equal to the lien on such parcel of the municipality where such parcel is situate for taxes thereon due in the same year and not paid when due. Such lien shall not bind or affect a subsequent bona fide purchaser of such parcel for a valuable consideration without actual notice of such lien, **unless the municipal authority shall have filed in the office of the collector or other officer of said municipality charged with the duty of enforcing such unpaid balance and identifying such parcel, which identification may be sufficiently made by reference to the assessment map of said municipality.** The information shown in such statement shall be included in any certificate with respect to said parcel thereafter made by the official of said municipality vested with the power to make official certificates of searches for municipal liens. Whenever such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall have been fully paid to the municipal authority, such statement shall be promptly withdrawn or canceled by the municipal authority.

# CUTTING GRASS AND CLEANING UP PROPERTY

## § 40:48-2.14. Cost for removal; lien

In all cases where brush, weeds, including ragweed, dead and dying trees, stumps, roots, obnoxious growth, filth, garbage, trash and debris are destroyed or removed from any dwelling or lands under any ordinance adopted pursuant to section 1 of P.L.1943, c.71 (C.40:48-2.13) or section 1 of P.L.1994, c.167 (C.40:48-2.13a), by or under the direction of an officer or code enforcement officer of the municipality, such officer or code enforcement officer shall certify the cost thereof to the governing body, which shall examine the certificate, and if found correct shall cause the cost shown thereon to be charged against said dwelling or lands; **the amount so charged shall forthwith become a lien upon such dwelling or lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.**

## § 40:65-12, Removal of grass, weeds, snow and ice; procedure upon failure

The governing body may make, amend, repeal and enforce ordinances to compel the owner or tenant of any lands abutting upon the public highways of the municipality, to **remove all snow and ice from the abutting sidewalks** and gutters of such highways within twelve hours of daylight after the same shall fall or be formed thereon, and all grass, weeds and impediments therefrom within three days after notice to remove same, and remove all grass, weeds and impediments from the portion of any street, or highway abutting on such lands, and **to provide for imposition of penalties for violation of any such ordinance, and to provide for the removal of such snow, ice, grass, weeds and impediments by the municipality where the owner or tenant of any such real estate shall fail to remove the same as provided in the ordinance.** The cost of removal of any such snow, ice, grass, weeds or impediments from any sidewalk, gutter or public highway by the municipality shall be certified to the governing body of the municipality by the officer in charge thereof. **The governing body shall examine such certificate, and if found to be correct, shall cause such cost to be charged against real estate so abutting upon such sidewalk or gutter thereof, and the amount so charged shall thereupon become a lien and tax upon such real estate and be added to and be part of the taxes next to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.**

§ 40:48-2.12f. Abatement of nuisance, correction of defect, etc., by municipality; lien against premises

Any ordinance adopted pursuant to this act may also provide that the municipality, by resolution of its governing body, may abate a nuisance, correct a defect, or put the premises in proper condition so as to comply with the requirements of any municipal ordinance or State law applicable thereto, at the cost of the owner or the lessor, and expend municipal funds for such purpose and charge the same against the premises, and the amount thereof as determined by the governing body of the municipality shall be a **lien** against the premises and collectible as provided in this act.

# RELOCATION ASSISTANCE

§ 20:4-4.1. Displacement by housing or construction code enforcement where owner liable for penalties; payment of relocation costs; lien; enforcement; appeal

- a. In the case of any displacement of persons by housing or construction code enforcement, including any rehabilitation necessitated by that enforcement, in which the owner of the real property has, in any final court adjudication, been held liable for a civil or criminal penalty, all relocation costs incurred pursuant to sections 4 and 6 of P.L. 1971, c. 362 (C. 20:4-4 and 20:4-6) shall be paid by the owner of the real property to the public agency making relocation assistance payments upon presentation to the owner by the public agency of a statement of those relocation costs and of the date upon which the relocation costs are due and payable.
- b. In the event that the relocation costs to be paid to a public agency with regard to any parcel of real property shall not be paid within 10 days after the due date, interest shall accrue and be due to the public agency on the unpaid balance at the rate of 18% per annum until the costs, and the interest thereon, shall be fully paid to the public agency.
- c. In the event that the relocation costs to be paid to a public agency with regard to any parcel of real property shall not be paid within 10 days after the due date, the unpaid balance thereof and all interest accruing thereon shall be a lien on the parcel. To perfect the lien granted by this section, a statement showing the amount and due date of the unpaid balance and identifying the parcel, which identification may be sufficiently made by reference to the assessment map of the municipality, shall be recorded with the clerk or register of deeds and mortgages of the county in which the affected property is located, and upon recording, **the lien shall have the priority of a mortgage lien**. Whenever relocation costs with regard to the parcel and all interest accrued thereon shall have been fully paid to the public agency, the statement shall be promptly withdrawn or cancelled by the public agency.

d. The tax collector or other officer of every municipality charged by law with the duty of enforcing municipal liens on real property shall enforce, with and as any other municipal liens on real property, all relocation costs and lien thereof shown in any statement filed with him by any public agency pursuant to subsection c. of this section, and shall deposit in the municipal treasury the sums realized upon enforcement or upon liquidation of any property acquired by the municipality by virtue of enforcement. If the public agency placing a lien is other than an agency of the municipality, the municipality shall forthwith pay over to that public agency the sums or a pro rata share of the sums realized upon enforcement or upon liquidation of any property acquired by the municipality by virtue of that enforcement.

e. The owner of any parcel of real property shall have the right to appeal the requirement that the owner pay the relocation costs incurred pursuant to sections 4 and 6 of P.L. 1971, c. 362 (C. 20:4-4 and 20:4-6) on the grounds that the cause of the violations was outside his control and the abatement of code violations is economically unfeasible. Appeal shall be to the Superior Court, Law Division, in summary proceedings.

f. This section shall not require a municipality to enforce a lien for relocation costs with respect to any real property the title to which it has acquired and which has been transferred pursuant to a rehabilitation agreement.

# ASSESSMENTS FOR MUNICIPAL IMPROVEMENTS

## § 54:5-7. Assessments for municipal improvements, continuous liens

All assessments for benefits for municipal improvements, including, but not limited to local improvements pursuant to R.S. 40:56-21, shall be a continuous lien on the land on which they are assessed on and after the date fixed in the laws, or the effective date of the ordinance or resolution, as the case may be, authorizing the assessment, or if no date is so fixed, then on and after the date on which they are payable. The lien shall be considered a statutory lien for all purposes, including the federal bankruptcy code, regardless of whether or not the amount of the assessment has been determined at the time that the lien attaches to the land. A confirmation hearing process to determine the amount of an assessment, such as is set forth in R.S. 40:56-21, shall not affect the commencement or validity of a lien under this section. All subsequent interest, penalties and costs of collection which thereafter accrue shall be added to and be a part of the initial lien.

LEGAL QUESTION AS  
TO WHETHER A  
MUNICIPALITY CAN  
TURN THIS MUNICIPAL  
CHARGE INTO A  
MUNICIPAL LIEN

# VACANT PROPERTY REGISTRATION FEE

N.J.S.A. 40:48-2.12s3

d. Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et al.). **Property registration fees imposed pursuant to subsection e. of this section and an ordinance adopted pursuant to subsection a. of this section shall be considered a municipal charge pursuant to the “tax sale law,” R.S.54:5-1 et seq., regardless of whether the fees are being collected by a **third-party entity** or by the municipality directly. The Local Finance Board of the Department of Community Affairs may adopt rules and regulations pertaining to contracts, entered pursuant to this subsection, with third-party entities for the implementation and administration of a property registration program.**

e. A municipality may impose an annual fee on a creditor required to register a property pursuant to an ordinance adopted pursuant to subsection a. of this section. The fee shall not exceed: (1) \$500 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclose was filed by the creditor; and (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in the ordinance when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in the ordinance at any time thereafter while the property is in foreclosure. All such annual fees and the due dates thereof shall be identified in the ordinance adopted pursuant to subsection a. of this section.

f. Notwithstanding the provisions of N.J.S.40A:5-15 to the contrary, any property registration fees imposed pursuant to subsection e. of this section and an ordinance adopted pursuant to subsection a. of this section and collected by a third-party entity contracted with pursuant to subsections d. and e. of this section shall be paid over to the municipality within a timeframe specified in the contract between the municipality and the third-party entity. Amounts collected by the third-party entity on behalf of the local unit shall be paid over in full to the local unit without any amount deducted as payment for services rendered by the third-party entity. Once the collected fees are paid over to the local unit, the officer charged with the custody of the general funds shall deposit all such funds within 48 hours after the receipt thereof to the credit of the municipality in its designated legal depository. A third-party entity shall collect and pay over to the municipality any interest and penalties, based upon the rate of interest and penalties fixed by the governing body of the municipality for late payment of property taxes, assessments, and other municipal charges pursuant to R.S.54:4-67, for late payment of the property registration fees imposed pursuant to subsection e. of this section and an ordinance adopted pursuant to subsection a. of this section. The third-party entity shall at least once a year, or as requested by the municipal tax collector, file a certification as may be required by the tax collector to enforce tax liens for all unpaid property registration program fees due and owing at the time the certification is filed.

# TREE IMPROVEMENT OR RENEWAL

## § 40:64-8. Cost of trees and improvements; charge and lien on property; exceptions

Except as hereinafter provided the initial cost of all trees planted by the commission, the cost of planting the same, the cost of the posts and boxes or guards used for the protection thereof, and the cost of the removal of any tree or part thereof dangerous to public safety shall, if the commission shall so determine, in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost if it is so determined that it is to be paid by the owner shall, unless paid directly to the commission be certified by it to the collector of taxes of the municipality, **shall thereupon become and be a lien upon said real estate, shall be included in the next tax bill rendered to the owner or owners thereof,** and be collected in the same manner as other taxes against that property.

The provisions of this section shall not apply to:

- a. A planting to replace a tree or trees theretofore planted by the commission;
- b. A planting in connection with Arbor Day exercises or other educational demonstration.

# FLOOD CONTROL

§ 40A:27-14. Sale of property by local unit for arrearages in assessments, interest or other charges

When any unpaid assessment, interest thereon or other charges for collection thereof remains in arrears on July 1 of the calendar year following the calendar year when the assessment, interest or other charge becomes in arrears, the appropriate officer of the local unit shall enforce the **lien** by selling the property in the manner set forth in chapter 5 of Title 54 of the Revised Statutes.

# TAX = UNPAID MUNICIPAL LIENS

## § 54:5-19. Power of sale; “collector” and “officer” defined

The term “collector” as hereinafter used includes any such officer, and the term “officer” includes the collector.

A municipality shall have the authority to conduct both standard and accelerated tax sales.

When unpaid taxes or **any municipal lien**, or part thereof, on real property remain in arrears at the close of the fiscal year, the collector or other officer charged by law in the municipality with that duty, shall enforce the lien by selling the property in the manner set forth in this article by holding a standard tax sale in the following fiscal year.

## § 40:14B-46. Civil action to recover unpaid service charge

In the event that any service charge of a municipal authority shall not be paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorneys' fees and costs, may be recovered by the municipal authority in a civil action, and any lien on real property for such service charge and interest accrued thereon may be foreclosed or otherwise enforced by the municipal authority by action or suit in equity as for the foreclosure of a mortgage on such real property.