



# **ENFORCEMENT**

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30 years in Municipal Government

Rutgers Instructor for Tax Collection I, II, III

**I'M A TAX**  
**COLLECTOR**

**What's your  
super  
power???**



# HISTORY LESSON

- 1917 – 2 due date 3/15, 12/1
- 1965 – Chpt 165 created 8% dlq rate, 10 day grace period
- 1970 – Created 8% interest (\$1000)/12% interest (\$1001)
- 1975 – Chpt 210 Amended Tax Sale to 12%, not before April 1
- 1977 – Chpt 435 created 8% interest (\$1500)/18% interest (\$1501)  
Amended Tax Sale to 18%
- 1983 – Chpt 478 created 2% COS (\$15-\$100)

# HISTORY LESSON (cont)

- 1991 – Chpt 75 Established SFY towns (over 35k population)
  - Resolution option to opt out
  - DLGS promulgated the tax bill format
  - 8/18 interest recalculation annually was removed
  - 6% YEP created
  - Redemption penalty thresholds increased to 2%, 4%, 6%  
(Previous was only 2% for all)
  - (Retro penalty ONLY to municipal liens, not outside)

# HISTORY LESSON (cont)

- 1997 – Chpt 99 created Accelerated Tax Sale  
Allowed In lieu of costs for mailings
- 2009 – Chpt 320 Created requirement for 50 day list  
Allows to withhold charges less than \$100 for up to 5 years
- 2011 – Chpt 160 created Electronic Tax Sale PILOT program  
PILOT was terminated and moved to Rules & Regs in July 2018

**2024 – Tax Collection as we know it today!!!**





# DELINQUENCY

Definition: The sum of all taxes and municipal charges due on a given property covering any number of quarters or years

Monthly/Qtly delinquent notices (tax and/or utility)

Contact Lienholders for subsequent payments

# ANNUAL RESOLUTION

## RESOLUTION FIXING THE RATE OF INTEREST TO BE CHARGED ON DELINQUENT TAXES OR OTHER MUNICIPAL CHARGES

*Whereas*, the Council of the Township of Hamilton is empowered, pursuant to N.J.S.A. 54:4-67, to fix the rate of interest to be charged for nonpayment of taxes or other municipal charges; and

*Whereas*, the Council of the Township of Hamilton finds the assessment of interest against delinquent municipal taxes or other charges will encourage prompt payment of the same by property owners, resulting in more efficient collection of revenues by the Township of Hamilton; and

*Whereas*, the Council of the Township of Hamilton finds it is in the best interests of the citizens of the Township of Hamilton to assess such interest;

*Now, Therefore, Be It Resolved* by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the Department of Finance is hereby authorized to charge the maximum legal rate of interest allowed pursuant to N.J.S.A. 54:4-67 for delinquencies as defined therein, as may be amended and supplemented from time to time, which rates presently

Eight Percent (8%) interest on delinquencies up to One Thousand Five Hundred Dollars (\$1,500.00)

Eighteen Percent (18%) interest on delinquencies equal to or greater than One Thousand Five Hundred Dollars and One Cent (\$1,500.01)

provided that no interest shall be charged if payment of any installment is made within ten (10) calendar days following the date upon when the installment became payable.

*Be it Further Resolved* that where any delinquency, as defined in N.J.S.A. 54:4-67, is in excess of Ten Thousand Dollars (\$10,000.00), the Hamilton Township Department of Finance is hereby authorized to impose a penalty thereon at the maximum legal rate of interest allowed pursuant to N.J.S.A. 54:4-67, as may be amended and supplemented from time to time, which penalty rate is presently six percent (6%).

# Title 54 Chapter 5

## Commonly Called Tax Sale Law

- Definition – The sale of property to collect payment of delinquent tax or other Municipal Charges
- Inclusive of Taxes, interest, costs of sale, water, sewer, electric, Assessments for Improvements, demolitions, board ups, etc.
- LIHWAP – non enforcement through 6/15/2022, including payment of subs on existing liens

# Accelerated Sale vs. Standard Sale

- Tax Sale process begins the 11th Day of the 11th Month
  - Calendar Year = 11/11
  - State Fiscal Year = 5/11
- Accelerated Sale is held prior to close of the current fiscal year
  - Current years delinquencies are sold in the current year
  - Requires Resolution of the Governing Body
  - Must be held by 12/31 (CY) or 6/30 (SFY) of the current year
- Standard Sale is held before the end of the following fiscal year
  - Prior year delinquencies are sold
  - Must be held by 12/31 (CY) or 6/30 (SFY) of the subsequent year

# Abandoned Properties-Special Tax Sale

## Chapter 210 P.L. 2003

- Property is deemed vacant by a Public Officer
- Not legally occupied for at least 6 months
- Construction project has been abandoned
- Minimum of (1) installment delinquent
- Property is a “nuisance” or hazard
- Property is in need of rehab
- Governing Body can dictate the terms of the sale
  - Require property to be rehabilitated
  - Set the sale amount
  - Require the property be owner occupied/no rentals
  - Lienholders can file affidavits with the tax collector for cost of rehabilitation which will then accrue to the existing lien

# TAX SALE PROCESS

- Tax Collector responsible for collecting entire tax levy
- Installments that are delinquent for certain periods of time require the Tax Collector to “ENFORCE” the levy through the tax sale process
- Listing is prepared
  - Accelerated Sale = 11th Day of the 11th Month
  - Standard Sale = 50 Days Prior to date of Sale
  - Permanent Record and must be bound

# Calculation of Amount For Sale

- Principal amount dlq as of 11/11/xx
- Interest calculated to DATE OF SALE
- **Certified** utility amounts, calculated to DATE OF SALE
- 2% Cost of Sale – min of \$15.00 Max of \$100
- “In Lieu of Mailing Fee”, if authorized by resolution of Governing Body
- **NOTE:** Farmland (3A & 3B property classes) are listed separately for billing purposes, but for tax sale they are combined as one(1) parcel

- Notice of Sale
  - Time & Place
  - Description of parcels (Block and Lot)
  - Name (taken from the most current tax duplicate)
  - Total due with interest & costs calculated to the date of the sale and which are still due at the time of preparing the notice
- Tax Sale Notice Posted and Advertised
  - Copies of the notice must be posted in 5 most public places
  - Notice must be published in the newspaper which circulates in the municipality one time in each (4) weeks preceding the week of the sale (Does not have to be the same day each week)
- Collector may substitute up to (2) ads with mailings (known as “In Lieu of” Mailings)
  - Mailings may be sent certified or regular mail
  - Sent to homeowner and any entity on file that has submitted a “5 Year Notice”
  - A Fee up to \$25.00 can be charged for each mailing (authorized by resolution)
- Tax Sale Notice Mailed to Owner
  - This notice is in addition to the advertisement and/or in lieu of mailings
  - Sent regular or certified mail to name and address as listed in the duplicate
  - Failure to send does not invalidate the sale

# 2 Types of Sale

## Call Out Sale – Live Auction Style

- The sale is a public auction
  - Held at the time and place as noticed
  - Each property is sold as advertised or for the amount still remaining unpaid
  - Liens can be sold for less than advertised but NEVER MORE unless the sale was adjourned to a new date (day to day, week to week, up to 8 weeks)
  - Bids begin at the maximum rate of interest 18% and is bid down
  - Bids that reach 0% then go to premium bids
    - Premium bids are monetary amounts paid in addition to the delinquent amount being sold
- **Certificate is sold to the lowest percentage of redemption interest bid or the highest premium bidder**

# MUNICIPAL LIEN

- In such cases where there are NO BIDDERS, the lien is struck off to the municipality at the highest interest rate of 18%
- All future taxes automatically accrue to the lien
- NO payments can be accepted until the lien is redeemed in full, inclusive of ALL current charges and interest
- Additional ENFORCEMENT – Foreclosure & Receivership

# Electronic Municipal Tax Sales (Online)

- LFN 2018-08 – Adoption of NJAC 5:33-1.1 creating regulations for long standing PILOT program for internet-based tax sales. This legislation establishes requirements for publication of notice, issuance of notice to the property owner, bidder registration, conducting the online tax lien sale, as well as the receipt and processing of payments. The regulations and the Notice also address other areas such as procuring a vendor and standard contractual provisions.

## Tax Sale Comparison – Pilot Program vs. 2018 New Regulations

Pilot Program	New 2018 Regulations
<ul style="list-style-type: none"> <li>The municipality’s governing body adopts a resolution requesting participation in the Pilot Program.</li> </ul>	<p>The municipality’s governing body adopts a resolution to authorize an electronic tax sale.</p>
<ul style="list-style-type: none"> <li>A certified copy of the adopted resolution and a completed Application for Electronic Tax Sale Pilot Program is mailed to the DLGS.</li> </ul>	<p>The adopted resolution to participate in electronic tax sale does not need to be mailed to the DLGS. No application needs to be filled out.</p>
<p>State gives approval to hold the electronic tax sale.</p>	<p>State approval is no longer required to hold the electronic tax sale.</p>
<ul style="list-style-type: none"> <li>In most cases the municipality may contract with a vendor to conduct a sale on behalf of the Tax Collector without quotations or public bids.</li> </ul>	<ul style="list-style-type: none"> <li>Municipality may contract with a vendor to conduct a sale on behalf of the Tax Collector by quotations or public bids.</li> <li>The process to follow depends on the estimated contract amount, the bid threshold of the municipality, and whether the municipality has a Qualified Purchasing Agent on staff.</li> </ul>
<p>The Tax Collector shall continue to prepare the tax lien sale notice required pursuant to N.J.S.A.54:5-25 (No fee allowed).</p>	<ul style="list-style-type: none"> <li>The Tax Collector shall continue to prepare the tax lien sale notice required pursuant to N.J.S.A.54:5-25 (No fee allowed).</li> </ul>
<ul style="list-style-type: none"> <li>Notice of Sale may be a display ad (minimum size of 2” x 3” with a bold black border) for four weeks. Three direct mailings required for which a fee not to exceed \$25 each may be charged – cost added to the cost of sale.</li> <li>Ordinance/resolution required to set mailing fee amount.</li> </ul>	<p>Notice of Sale may be a display ad (minimum size 2” x 3” with a bold black border) for four weeks or, not less than two weeks with two direct mailings for which a fee of not to exceed \$25 each may be charged – cost added to cost of sale. Ordinance/resolution required to set mailing fee amount.</p>
<ul style="list-style-type: none"> <li>Bidding shall open upon the first publication of the newspaper advertisement.</li> </ul>	<p>Bidding shall open upon the first publication of the newspaper advertisement.</p>
<ul style="list-style-type: none"> <li>The municipality shall physically post copies of the tax lien sale notice in five of the most public places in the municipality</li> </ul>	<ul style="list-style-type: none"> <li>The municipality shall physically post copies of the tax lien sale notice in five of the most public places in the municipality.</li> <li>Notice must state that the sale is being held through an online auction, that bidders should submit their bids no later than the date and time of the sale. A full link to the website must be included.</li> </ul>
<ul style="list-style-type: none"> <li>Nothing is required to be posted on the municipality website.</li> </ul>	<p>If the municipality has a website a copy of the tax sale notice and a link to the auction site shall be posted.</p>

**The TOWNSHIP OF ANYTOWN announces the sale of 2019 and  
prior year delinquent taxes, sewer and other municipal charges  
through an on-line auction on**

**DECEMBER 16, 2019**

**8:30AM**

**For a listing of all parcels, delinquencies and costs, please visit**

**<https://anytown-mercer.newjerseytaxsale.com/>**

**\*\*information can be viewed free of charge\*\***

# Contracting Requirements For Electronic Tax Sales in New Jersey

*As of 2020*

<u>Bid Process Required</u>	<u>Estimated Contract Amount</u>	
	With Qualified Purchasing Agent	Without Qualified Purchasing Agent
<p><b>RFP / Public Bid</b>                      If the estimated contract amount exceeds the amount shown in the appropriate column on the right, the municipality must conduct a public bid.                      Rule 5:33-1.1(c)(1) permits municipalities to use the “competitive contracting” process which allows municipalities to award contracts on the basis of an evaluation and ranking of technical, management and cost-related criteria, which may be weighted in the municipality’s discretion. The evaluation criteria must be announced in the RFP but it is in the municipality’s discretion to disclose the relative weighting of the criteria as part of the RFP or wait until making the award.                      Note: municipalities must adopt a resolution to permit “competitive contracting”. Absent this requirement, “public bid” means the municipality must accept the lowest bid meeting the specifications. NO discretion is permitted if vendor meets requirements.</p>	Greater than \$44,000	Greater than \$17,500
<p><b>Quote</b>                      If the estimated contract amount falls below the RFP/Public Bid amount but is greater than the amount shown in the appropriate column on the right, the municipality may use a quotation process in lieu of the RFP/Public Bid process.                      The quotation process requires the solicitation of at least two (2) quotations and may be awarded to the vendor whose response is “most advantageous, price and other factors considered.” The purchasing agent may make the award directly, without the approval of town council (unless the municipality does not permit this).</p>	Greater than \$6,600	Greater than \$2,625
<p><b>No Bid / Quote Required</b>                      If the estimated contract amount falls below the amount shown in the appropriate column on the right, the contract may be awarded directly to the vendor of choice without public bid or quote (unless the municipality does not permit this).</p>	Less than \$6,600	Less than \$2,625

# Reasons To “Stay” a Property From Sale

- Bankruptcy
- Court Order
- TOTAL Levy under \$100.00 (NOT BALANCES DUE!) -5 year max or until total exceeds \$100
- Properties with previously approved payment plans by resolution of the Governing Body that are CURRENT on their payments (5 year plan)
- NJ Soldiers & Sailors Relief Act of 1979

# Bankruptcy

Immediately flag account / notify other agents such as utility, lienholder, etc

Pre Petition vs Post petition, notify petitioner of responsibilities

File Proof of Claim

PACER access

Chapter 7 – Liquidation for individual or business

Chapter 11 – Business

Chapter 12 – Farmland/Fishing

Chapter 13 – Reorganization for Individuals

**AUTOMATIC STAY** – NO ENFORCEMENT UNTIL DISMISSAL OR DISCHARGE

## Payments at Sale

- The Tax Sale is not complete until ALL payments have been received by the collector. If a successful bidder does not make payment; the property is resold

## Premiums Held by the Collector

- Premiums bid at sale are held by the collector in a municipal trust account until the lien is redeemed
- Premiums are escheated (forfeited) to the Municipality when
  - The lien is foreclosed
  - 5 Years have elapsed (extension is allotted on a day for day basis for bankruptcies) and neither a redemption nor foreclosure has taken place

# Post Tax Sale

- Creation and issuance of Tax Sale Certificates within 10 days (day of sale is 1<sup>st</sup> day)
- Lienholder must record the certificate(s) within 90 days of sale or may be deemed VOID. Copy of the recorded certificate shall be forwarded to the Tax Collector.
- All subsequent payments that become due and remain dlq may be paid by the lienholder and added to the lien, with the appropriate affidavit being certified with the Tax Collector's office.

# Redemptions

## Within 10 Days (prior to issuance)

- CERTIFICATE AMOUNT
- INTEREST BID OR PREMIUM

## After 10 days or issuance

- CERTIFICATE AMOUNT
- INTEREST BID OR PREMIUM
- REDEMPTION PENALTY (2%,4%,6%)
- RECORDING FEE
- SEARCH FEE
- OUTSIDE LIEN – Sub payments & Interest w/ affidavits filed, Foreclosure Fees, YEP

# Who Is Entitled To Redeem

- OWNER
- HEIRS
- PRIOR LIEN HOLDERS (Can redeem forward, never back)
- MORTGAGE HOLDER
- OCCUPANT – LEGAL LESSEE (Not a squatter)
- -----
- All Redemptions must be IN FULL and handled through the Tax Collector's Office - Violators forfeit certificate to redeeming party
- NOTE – The right to obtain redemption amounts is NOT the same as the right to redeem. Under OPRA, anyone can request a redemption calculation. Under NJSA 54:5-54 only the above mentioned has right to redeem.

# REDEMPTIONS IN INSTALLMENTS (Post-Tax Sale)

- Municipal Liens only
- Resolution of Governing Body
- Equal Monthly Payments of not more than 3 years
- Subject to 18% Interest
- Provision that all CURRENT taxes must be paid on time
- If not paid w/in 30 days of Due date, payment plan is VOID and is enforceable through foreclosure and assignments
- Final payment must be enough to cover balance of ALL amounts due with proper interest

# ASSIGNMENTS

## **54:5-112 Private Sale**

- Full Value of Lien
- Certificate is surrendered to assignee
- Redemption monies given to assignee
- NOTE – NO REDEMPTION PENALTY WHEN CALCULATING ASSIGNMENTS

## **54:5-113 Bulk Sale (Private or Public)**

- Full Value of Lien or Assessed valuation, if lien exceeds assessment
- Certificate is surrendered to assignee
- Redemption monies given to assignee

# Assignments (cont.)

## **54:5-114-1 Public Sale**

- Sold at public sale to highest bidder
- May sell for less than value, with confirmation of governing body
- Sale does not include current year taxes
- Certificate is surrendered to assignee
- Upon redemption, purchaser receives redemption based on FULL amount of certificate
- Sale is not limited by assessed valuation

# Assignments (cont.)

## **54:5-114.2 Jones Act**

- Similar to 54:5-114-1 with following EXCEPTION:
- Final Judgement **MUST** be recorded with 2 years of assignment
- This provision can be extended by resolution of the Gov Body with application **PRIOR** to expiration of 2 year period
- Upon failure to foreclose, title reverts back to the municipality with **NO** refund of monies to the purchaser
- Certificate is **NOT** surrendered to the assignee
- If redemption occurs, purchaser receives only the purchase price, interest and costs. The municipality retains all excess monies.

# FORECLOSURES

## **IN PERSONAM – AGAINST THE PERSON**

- Outside lienholder may foreclose after 2 years from the date of the tax sale

## **IN REM – AGAINST THE THING (PROPERTY)**

- Only a Municipality may use this method
- May commence foreclosure after 6 months from the date of the sale .... NOTE – part of the certificate **MUST** be at least 21 months old
- Not Personal Judgement

# Supreme Court Decision on Redemptions

June 2021

- Duty of the Tax Collector to provide redemption figures
- Policy to verify figures remains, however once affidavit of non-redemption is signed, it is to be assumed motion for Final Judgement has been applied filed.
- Use affidavits and documents on hand to provide figure and immediate follow up with OTL/attorney.
- Gives time for a corrected quote, if necessary.

**FORECLOSURE**

30 Day Letter of Intent to Foreclose Date \_\_\_\_\_

Notice of Filing of Complaint Date \_\_\_\_\_

Legal Fees Added Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Affidavit of Non-Redemption Signed Date \_\_\_\_\_

FINAL JUDGEMENT Date \_\_\_\_\_

# Updates

- ZOOM is not an acceptable form of Tax Sale
- Reminder – If a tax/utility is not dlq as of 11/11/xx it is NOT enforceable for the current year tax sale whether Standard or Accelerated
- Tyler vs Hennepin - Whether taking and selling a home to satisfy a debt to the government, and keeping the surplus value as a windfall, violates the Takings Clause of the 5<sup>th</sup> Amendment of the US Constitution.

Currently, in New Jersey, there are no Sheriff Sales for tax foreclosures, unless the federal government has a lien on the underlying property. However, the laws in New Jersey will be changing to help protect property owners from losing title to their properties and the surplus equity. However, it will require the property owner to alert the Court that there is equity in the property.

Even if the property is in foreclosure, a property owner has the right to sell the property to pay the taxes and keep the equity.

If there is equity in the property and the Court is notified, the property should go to sheriff sale, where investors can bid on the property. If the successful bidder pays more than the amount of taxes owed, it can create "Surplus Funds". The property owner or their heirs may be entitled to these funds and can make an application to the Court to get the "Surplus Funds".