

CTC-97-4

Notice Number

New Jersey Department of Community Affairs
 Division of Local Government Services

10/31/97

Date

LOCAL FINANCE NOTICE

CHRISTINE TODD WHITMAN
 GOVERNOR

JANE M. KENNY
 COMMISSIONER

BETH GATES
 DIRECTOR

NOTE TO READERS

This past summer, Governor Whitman enacted into law a two bill package that provide municipalities with additional options to manage its cash flow and property tax revenues; the ability to "sell" its tax levy, and the option of selling its tax liens in the current year, instead of the following year. In addition, Chapters 99 and 190 of the Laws of 1997 also clarify a number of technical issues regarding the sale of tax liens and other tax collection practice issues. Because of the scope and complexity of the changes, the Division is issuing three Local Finance Notices to assist local officials in managing their impact. The Notices are:

- MC-97-5 Tax Lien and Tax Levy Sales - Information for Elected Officials
- CTC-97-4 Tax Billing and Tax Lien Law Changes
- CTC-97-5 Tax Levy Sale Procedures

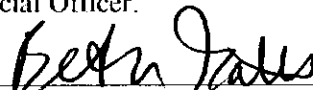
MC-97-5 is being distributed to Mayors and Governing Body members through the municipal clerk and to tax collectors; the two CTC Notices are being sent directly to tax collectors, and collectors are directed to provide the chief financial officer with a copy. CTC 97-4 will also include a copy of both laws showing the statutory changes.

Summary of P.L. 1997, c. 99 Tax Billing and Tax Lien Law Provisions and Changes

While Chapters 99 and 190 of the Laws of 1997 are more popularly known for the creation of mechanisms to have an accelerated tax sale and to "sell" property tax levies, they also represent the most wide ranging practical and technical amendments to delinquency, tax lien and tax sale laws made in many years. As such, each tax collector must become familiar with the changes as they affect all municipalities. As there are many details and nuances that are affected by the law, a Local Finance Notice cannot cover all aspects and effects they may have.

However, to provide a basic level of information from which each tax collector can assess its impact on their municipality, which can be supplemented by continuing education seminars, the Division has prepared an outline that summarizes the changes to the law, and organizes them by subject matter. In interpreting and applying the information to their municipality, tax collectors should carefully review the outline, refer to the copy of the law that is attached, study educational material issued by the Tax Collectors and Treasurers Association, and consult local legal counsel.

Finally, while the Division intends to adopt a series of regulations that clarify and elaborate on several sections of the law, there are several actions that are directed to be followed until formalized by rule. They are enclosed with this Notice. Please provide a copy of this Notice to the Chief Financial Officer.



Beth Gates, Director
 Division of Local Government Services

Enclosures

Distribution: Municipal Tax Collectors

Director's Office
 (609) 292-6613

Local Government
 Research
 (609) 292-6110

Financial Regulation
 and Assistance
 (609) 292-4806

Local Finance
 Board
 (609) 292-4537

Local Management
 Services
 (609) 292-7842

Authority Regulation
 (609) 984-0133

Fax
 (609) 984-7388

Directives Regarding Tax Lien Sale Provisions of P.L. 1997, c. 99

I. Issuance of duplicate tax sale certificates pursuant to N.J.S.A. 54:5-52.1

When a duplicate tax sale certificate is issued, pursuant to this section, the following procedures shall be followed by the tax collector and governing body:

1. Whenever practicable, the tax collector shall obtain an appropriate affidavit, certified by a notary public or the certificate tax collector, from the person shown as owner of the certificate, and keep same on file. The affidavit shall include certification that: 1) the person filing for the duplicate is and was the owner of the certificate; 2) that the certificate was destroyed or lost; and 3) has not transferred or otherwise assigned the certificate. This certification may be amended to meet special circumstances.

2. The governing body shall adopt a resolution authorizing the tax collector to issue the duplicate certificate. Once the certificate is issued by the tax collector, the collector shall provide a copy of the duplicate certificate and the affidavit to the municipal clerk, who shall attach them to the resolution.

3. The duplicate certificate should be identical to the original, except for name of the tax collector if there is a different tax collector serving at the time the duplicate is issued. The duplicate certificate shall be marked as a duplicate.

II. Calculation of tax collection rate

For financial reporting purposes, the Annual Financial Statement shall reflect the deduction of the proceeds of an accelerated tax sale for the calculation of the collection rate, and show both the underlying collection rate and the true collection rate. For the purposes of the annual audit, the true collection rate shall be shown, and there shall be a footnote indicating the underlying collection rate and that the true collection rate includes the proceeds of an accelerated tax lien sale.

III. Unanticipated use of an accelerated tax lien sale

As enacted, Chapter 99 did not directly address the circumstance of municipalities that did not anticipate an accelerated tax sale in the budget, but choose to have it at the end of the fiscal year anyway. In order to maintain uniformity of calculations for budgetary purposes, regardless of the circumstances surrounding an accelerated tax sale, calculations of the tax collection rate shall exclude any accelerated tax sale or levy sale, whether or not a tax levy sale or accelerated tax lien sale is utilized in the current year's budget (underlying collection rate). This also requires that whenever the proceeds of an accelerated tax lien sale shall be part of the current year municipal budget, a resolution of the governing body shall be required.

IV. Filing of fiscal analysis for accelerated tax lien sale

The three year fiscal analysis required by N.J.S.A. 40A:4-40.3 shall only be required the first time a municipality utilizes an accelerated tax lien sale as a reduction to its reserve for uncollected taxes. In calculating the succeeding year's amounts, the current year's value shall be used for Net Value Taxable and Total Appropriations. Once the cycle has started, but there is a year when the revenue is not anticipated, the analysis shall also be required in the year when the revenue is next utilized.

If a municipality, after the adoption of its budget, held an unanticipated accelerated lien sale at the end of the fiscal year, and **does not** choose to continue the process in the following year, the governing body shall, upon preparing the new budget, apply the provisions of N.J.S.A. 40A:4-40.3, and by resolution, file a three year fiscal impact statement showing the effect of the lien sale on the previous year's financial operations, the current year, and the next year with the Division of Local Government Services and the municipal clerk.

V. Calculation of amount to reduce reserve for uncollected taxes

To simplify the formal calculation of the amount utilized to reduce the reserve for uncollected taxes when an accelerated tax lien sale is planned, the following formulas may be used. For the first year, utilize the previous year's amount realized Receipts from Delinquent Taxes (Budget Sheet 11, line 4), increased by the percentage increase in the total tax levy from the previous year to the current year. For subsequent years calculations, utilize the proceeds from previous year's accelerated tax sale and Annual Financial Statement Sheet 25A to calculate the net reserve.

VI. Clarification of Notice of Tax Sale to those entitled to Notice of Foreclosure

In applying the provisions of R.S. 54:5-26, the notice of due process service in the event of a tax lien sale applies only to those who have filed with the tax collector, information pursuant to R.S. 54:5-104.48.

VII. Use of N.J.A.C. 5:33-1.5 for Tax Sale Certificate Holder Tax Payments

In order to properly account for payments made by third parties when paid prior to the due date, the provisions of N.J.A.C. 5:33-1.5, the use of an "unreconciled item" holding subsidiary ledger journal entry, may be utilized to hold them pending refund if the taxpayers makes a timely payment and passage of a refund resolution by the governing body.

Division of Local Government Services
Summary of P.L. 1997, c. 99
Tax Billing and Tax Lien Law Provisions and Changes
(statutory references in parenthesis)

I. General rule - any practices not changed by these provisions remain intact.

II. Tax Billing

- A. All tax bills must now include the delinquent interest rate and end-of-year penalty provisions. (54:4-65)
- B. When interest rates are changed for any purpose, including creating or changing an end-of-year penalty, notice of the rate change and effective date must be provided to all taxpayers prior to next payment or with the next tax bill. It may be separate from tax bill or appear on the bill, which includes the back of the bill for MOD IV style bills. (54:5-67(b))
- C. A governing body can now fix interest rates for unpaid assessments and other municipal liens or charges. This permits an interest rate to be set for improvements not financed through debt obligations. (54:4-67)
- D. Clarifies that delinquent interest is charged until the date of actual payment to tax collector. (54:4-67(c))

III. Tax Delinquencies

- A. Clarification of prepayments: owners, agents, and lien holders can prepay or pay taxes with no interest until delinquency date.
 - 1. If there is a grace period, the delinquency date is the end of the grace period. Up until that day, priority is given to owners when there are third party lien holders. (54:4-66 and 66.1)
 - 2. The provisions of N.J.A.C. 5:33-1.5 (creating a "unreconciled item" subsidiary ledger entry) may be utilized to account for payments made by third parties when paid prior to the due date, and to hold them pending refund if the taxpayers makes a timely payment and passage of a refund resolution by the governing body.
- B. Reversing a court decision, delinquency law is enhanced to require that any delinquency shall remain that way, even though a tax sale certificate is issued, a lien or levy buyer pays the delinquency, or it is paid to allow for filing of a tax appeal. This means that full delinquency obligations, including any tax sale certificates must be paid prior to any appeal being filed. (54:4-67)
- C. Clarification of end-of-year penalty (54:4-67):
 - 1. The law makes it clear that the \$10,000 threshold must exist at the end of each and every fiscal year, and is **not** based on an accumulation of several year's delinquencies, it is only calculated on the current year's obligation.
 - 2. In order for a third party certificate holder to share the 6% year-end penalty proceeds, the certificate holder must pay not less than \$10,000 of the delinquency, prior to the end of the fiscal year.

D. Clarification that municipal liens are superior to any condominium liens. (17:12B-11 et seq.)

IV. Tax Lien Sales

- A. Tax sale proceedings can start when a property is in arrears after 11th day of 11th month of the fiscal year, and take place anytime thereafter. This also means that advertising can start and the sale can be scheduled anytime after that date. (54:5-19)
1. Collectors must be sure that an accelerated lien sale takes place and is completed prior to the end of the fiscal year in order for its proceeds to be taken into account for the fiscal year.
- B. Tax Sale resolutions
1. Existing law regarding the role of the governing body in setting, by resolution, those items to be included in the tax sale, i.e., current or prior year delinquencies or exclusion of those under partial payment agreements, is modified, only to permit the resolution to include properties delinquent as of the 11th day of the 11th month.
 2. This resolution is different from the one required to include the proceeds of a sale as an offset to the reserve for uncollected taxes in the budget. (54:5-19)
- C. In lieu of two of the normal lien advertisement publications, notice to owner and those filing for tax lien sale notice (pursuant to N.J.S.A. 54:4-104.48) may be done by regular or certified mail. (54:5-26)
1. An additional maximum of \$25 per set of mailings may be charged to cover the costs of the mailed notice. This cost is in addition to the usual costs (2% cost of sale rule) of the sale and the fee must be set by resolution.
 2. For these purposes, a "set" of mailings means each mailing to the property owner.
 3. Failure of owner to receive notice shall not constitute reason to void sale. All notices must appear in separate weeks and not in the week of the sale.
- D. The rights of a taxpayer to make a delinquent tax payment or redeem a tax sale certificate are not changed by the law.
- E. After a sale, the sale date is the first of the 10 days the collector has to prepare a ready for delivery tax sale certificate. If not done in time, only a lien buyer (not a levy purchaser), can refuse it and accept refund, with the certificate reverting to the municipality. (54:5-49)
- F. For tax sale certificates that are destroyed or lost, the previous two year waiting period requirement for a replacement certificate has been eliminated, and replaced with authorization for issuance of a duplicate certificate. (54:5-52.1)
1. As a prevention against fraud, the tax collector should obtain an appropriate affidavit from the person shown as owner of the certificate, which should be kept on file by the collector. It should also be attached to the authorizing resolution. This affidavit should include certification that the person:
 - i. Is and was the owner of the certificate
 - ii. Certificate was destroyed or lost
 - iii. Has not transferred or otherwise assigned the certificate.

2. This process requires a governing body resolution to authorize issuance of a duplicate certificate. The certificate should be identical to the original (except for name of collector, if it changed), be marked as a duplicate, and the holder may be charged up to \$100 for it. The fee must be set by ordinance or resolution. Ultimately, the resolution should have a copy of the affidavit and duplicate certificate attached to it.

G. The amount to redeem taxes after a sale is clarified as follows: (54:5-58)

1. The date of a tax sale is counted as the first day in calculating the amounts to redeem a certificate, as long as the tax sale certificate has not been issued as of the time of redemption.
2. Existing practices for redemption apply if the certificate was not issued.
3. If the certificate was issued, however, redemption includes all moneys paid for the certificate, any accrued interest or penalties, expenses, and payment of subsequent taxes, and interest is calculated to the point when the governing body authorizes the collector to issue and release redemption moneys.

H. If an affidavit is on file, the law clarifies the generally accepted principle that for non-municipally held certificates, the amount to redeem includes all sums for subsequent taxes, municipal liens and charges, and calculated on interest rates as allowed. (54:5-60)

I. The law on style of tax sale certificates was amended to meet court interpretations by deleting archaic language that was already eliminated in practice. (54:5-47)

J. Law relating to the right of redemption was amended to clarify that any prior tax lien certificate holder has a right of redemption, and now formally includes liens for assessments in addition to taxes. (54:5-54)

V. Assignment Sales

- A. A series of laws (54:5-112, 113, 13.4, 114.1, 114.2, and 114.4) were similarly amended to require that when there are further assignment of tax lien certificates (in addition to being filed in the County Clerk's Office), a copy must be sent, by certified mail, return receipt required, to the municipal tax collector. If the assignment is not filed this way, the collector may rely on existing records, and is held harmless if redemption is made by another party who otherwise appears to be the certificate holder and owner.

VI. Budget Law - Accelerated Tax Lien Sales

- A. Commencing with the first year a governing body wants to anticipate the revenue from an accelerated tax sale in its budget as a reduction to its reserve for uncollected taxes, a resolution authorizing it must be passed prior to adoption of the budget. Holding a sale this way has several important ramifications: (40A:4-40.2)
1. To reduce the reserve for uncollected taxes, the municipality may reduce the normally calculated reserve by utilizing the proceeds from the accelerated tax sale in the delinquency collection formula (40A:4-29) as a reduction to the reserve. AFS Sheet 25A shows this calculation.
 2. The reserve reduction is offset by elimination or substantial reduction in Receipts from Delinquent Taxes and Interests and Costs on Taxes revenue in the next year's budget.

3. For all practical purposes, if a municipality exercises this option, it is committing itself to doing it every year, or it may face a current collections shortfall.
- B. The first year the reserve for uncollected taxes is reduced as the result of an accelerated tax lien sale, prior to the adoption of the budget, the municipal CFO or RMA must provide the governing body a fiscal analysis of the impact of the action. DLGS is promulgating a standard for the analysis. The form is considered a public record and must be made available to the public. (40A:4-40.3)
- C. Utilization of an accelerated tax sale will initially prohibit participation in the local examination of the budget, pursuant to N.J.A.C. 5:30-7 for one three year cycle.

VII.DLGS responsibilities

- A. Director may adopt rules and regulations necessary for the act. (54:5-113.7)

Fiscal Analysis Report Impact of Accelerated Tax Sale or Tax Levy Sale

Required by the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:-4-40.3

Name of Municipality: _____ County: _____

Proposed Action: Accelerated Tax Sale Sale of Tax Levy

Fiscal Year for initial action: _____

The purpose of this analysis is to provide the municipal governing body and the public with an understanding of the fiscal impact that will result from the proposed action. Upon submission to the governing body, this Fiscal Analysis Report shall be considered a public document. Preparer's are advised to develop supporting documentation and tables as may be necessary to explain the underlying assumptions that result in the calculations on the Fiscal Indicator Analysis.

This Analysis has been prepared by (print name) _____,
the (cross out one) Chief Financial Officer/Registered Municipal Accountant of the municipality.

Date: _____ Signature: _____ License #: _____

Part 1 — Fiscal Indicator Analysis

Current Year Current Plus 1 Current Plus 2

	Current Year	Current Plus 1	Current Plus 2
Net Value Taxable			
Surplus Available			
Anticipated Surplus in budget			
Receipts from Delinquent Taxes			
Interest and Costs on Taxes			
Total Appropriations			
Reserve for Uncollected Taxes			
Less Deduction to Reserve			
Net Reserve for Uncollected Taxes			
Local Purpose Property Tax Rate			
Underlying Tax Collection Rate			

Part 2 — Narrative Explanation

(attach additional sheets or utilize a facsimile document as necessary)

For each indicator that changes over the three year period, and the reason for the change stems from the proposed sale, explain the reason or justification for the changes. Net Value Taxable and Total Appropriations must be fixed at the current year's amount for Current Plus 1 and 2.

Surplus Available:

Anticipated Surplus:

Receipts from Delinquent Taxes:

Interest and Costs on Taxes:

Reserve for Uncollected Taxes (all indicators)

Local Purpose Property Tax Rate:

Tax Collection Rate:

MODELING THE FISCAL EFFECT OF AN ACCELERATED TAX LIEN OR TAX LEVY SALE

P.L. 1997, CHAPTER 99

The following financial information and worksheet is an example of a municipality planning an accelerated tax lien sale or tax levy sale. It is intended to help determine and demonstrate the impact of accelerating delinquent tax revenue, either through an accelerated lien or tax levy sale, on the current and subsequent year's budget. It can be used to assist in preparing the Fiscal Analysis Report/Impact of Accelerated Tax Sale or Tax Sale Levy required by the Division of Local Government Services the first year one of these options is utilized.

The calculations for the Reserve for Uncollected Taxes is based on the formula outlined in Local Finance Notices CTC-97-4 and CTC-97-5. The results of this example is not considered to be representative of any particular municipality, but is to provide some insight into the possible impact on the budget and tax collection process.

The following assumptions were used in developing the worksheet:

- ◆ Budget Revenues did not change other than acknowledging the loss of Receipts from Delinquent Taxes and Interest and Costs on Taxes the year after the accelerated tax lien sale.
- ◆ Budget appropriations increased roughly 2.50%. Users should remember that the form required by the Division does NOT permit appropriations to be increased over the current year.
- ◆ Reserve for Uncollected Taxes were computed on a percentage **lower** than the percentage of collection (conservative position), and were adjusted in future years based on LFN CTC 97-4.
- ◆ Net Valuation Taxable remained stable. Users should remember that the form required by the Division does NOT permit this amount to be increased over the current year.
- ◆ Tax levies did not reflect any changes in the amounts needed to support the county, schools, or special districts.
- ◆ Tax collections reflects 100% collected in future years based on use of accelerated tax lien or levy sale(s).
- ◆ The new underlying tax collection rate reflects the percentage of collection before tax sale receipts.

A copy of the spreadsheet file (.wk1 format) is available from Bruce MacLeod, Tax Collector, City of Cape May, 643 Washington Street, Cape May, NJ 08204-2397. **You must send a blank, formatted, 3.5", MS-DOS diskette, and a self-addressed, stamped mailer.**

A downloadable version of the spreadsheet can be found on the Division of Local Government Services' Internet site at: <http://www.state.nj.us/dca/dcahome.htm>.

This material was prepared by Bruce MacLeod, Tax Collectors and Treasurers Association of New Jersey, and is provided by the Division of Local Government Services as an aid to local officials.

Municipality: _____

	Prior Year	Current Year	Current Plus 1	Current Plus 2
Financial Data:				
Budget Revenue:				
A		\$1,300,000	\$1,300,000	\$1,300,000
B		\$3,315,000	\$3,315,000	\$3,315,000
C		\$425,000	\$425,000	\$0
D		\$75,000	\$75,000	\$0
E		\$3,063,158	\$2,870,104	\$3,222,573
<hr/>				
F	\$0	\$8,178,158	\$7,985,104	\$7,837,573
Budget Appropriations:				
G		\$5,250,000	\$5,400,000	\$5,575,000
H		\$400,000	\$400,000	\$400,000
I		\$75,000	\$75,000	\$75,000
J		\$1,500,000	\$1,600,000	\$1,650,000
K		\$953,158	\$966,316	\$389,490
L			(\$456,212)	(\$251,917)
<hr/>				
M		\$8,178,158	\$7,985,104	\$7,837,573
N		***** \$770,000,000		\$770,000,000
Tax Levy:				
O		\$8,500,000	\$8,500,000	\$8,500,000
P		\$7,000,000	\$7,000,000	\$7,000,000
Q		\$500,000	\$500,000	\$500,000
R		\$3,063,158	\$2,870,104	\$3,222,573
<hr/>				
S	\$0	\$19,063,158	\$18,870,104	\$19,222,573
T		\$0.3978	\$0.3727	\$0.4185
U		\$18,450,000	\$18,870,104	\$19,222,573
V			(\$250,000)	(\$200,000)
<hr/>				
W	\$0	\$18,450,000	\$18,620,104	\$19,022,573
X		96.78%	100.00%	100.00%
Y			98.68%	98.96%

Municipality: _____

	Prior Year	Current Year	Current Plus 1	Current Plus 2
Reserve for Uncollected Taxes:				
1		\$7,225,000	\$7,475,000	\$7,700,000
2		\$8,500,000	\$8,500,000	\$8,500,000
3		\$7,000,000	\$7,000,000	\$7,000,000
4		\$500,000	\$500,000	\$500,000
5		\$0	\$23,225,000	\$23,475,000
6			\$5,115,000	\$5,115,000
7		\$0	\$18,110,000	\$18,360,000
8			\$19,063,158	\$19,326,316
9				\$19,474,490
(Based on Net Percentage of Collections)				
10		\$0	\$953,158	\$966,316
Reserve for Uncollected Taxes Exclusion:				
11			1.38%	0.77%
12			\$450,000	
13				\$250,000
14			\$456,212	\$251,917
15		\$953,158	\$953,158	\$510,104
Analysis of Taxes:				
16		\$7,225,000	\$7,475,000	\$7,700,000
17		\$953,158	\$510,104	\$137,573
18		\$0	\$8,178,158	\$7,985,104
19			\$5,115,000	\$5,115,000
20		\$3,063,158	\$2,870,104	\$3,222,573
21		\$8,500,000	\$8,500,000	\$8,500,000
22		\$7,000,000	\$7,000,000	\$7,000,000
23		\$500,000	\$500,000	\$500,000
24		\$0	\$19,063,158	\$18,870,104
			\$19,222,573	

Municipality: _____

Prior Year	Current Year	Current Plus 1	Current Plus 2
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Analysis of Tax Collections:

26	Total Tax Collections:	\$18,450,000	\$18,870,104	\$19,222,573
27	<i>Less:</i>			
28	<i>School Taxes</i>	\$8,500,000	\$8,500,000	\$8,500,000
29	<i>County Taxes</i>	\$7,000,000	\$7,000,000	\$7,000,000
30	<i>Special Districts</i>	\$500,000	\$500,000	\$500,000
<hr/>				
31	Balance for Municipal Purposes:	\$0	\$2,450,000	\$2,870,104
32	Plus: Net Reserve for Uncollected Taxes:		\$953,158	\$510,104
<hr/>				
33	Total for Municipal Purposes:	\$0	\$3,403,158	\$3,380,208
34	<i>Less: Budgeted Amount of Local Purposes Tax</i>		\$3,063,158	\$2,870,104
<hr/>				
35	Surplus [+ (-)]:	\$0	\$340,000	\$510,104

Tax Lien and Tax Sale Law Amendments P.L. 1997, c. 99 and c. 190

Chapter 99 Amendments

AN ACT authorizing the public sale of a total municipal property tax levy to the highest bidder and amending and supplementing various sections of statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.4:4-65 is amended to read as follows:

a. The Director of the Division of Local Government Services in the Department of Community Affairs shall approve the form and content of property tax bills.

b. Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per \$100.00 of assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill. There shall be included on or with the tax bill the delinquent interest rate or rates to be charged and any end of year penalty that is authorized.

c. The appropriate tax bill or form mailed with the tax bill shall also contain a statement reporting amounts of State aid and assistance received by the municipality, school districts, special districts and county governments used to offset local tax levies. The director shall provide each tax collector with a certification of the amounts of said State aid and assistance for inclusion in the tax bill.

d. The tax bill or form mailed with the tax bill shall include thereon the date upon which each installment is due.
(cf. P.L. 1994, c.32, s.2)

2. R.S.4:4-66 is amended to read as follows:

a. Taxes for municipalities operating under the calendar fiscal year shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1, after which dates if unpaid, they shall become delinquent and remain delinquent until such time as all unpaid taxes, including taxes and other liens subsequently due and unpaid, together with interest have been fully paid and satisfied:

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the interest and penalties hereinafter prescribed;

c. The dates hereinbefore provided for payment of the first and second installments of taxes being before the true amount of the tax will have been determined, the amount to be payable as each of the first two installments shall be one-quarter of the total tax finally levied against the same property, or taxpayer for the preceding year or, if directed to do so for the tax year by resolution of the municipal governing body, one-half of the tax levied for the second half of the preceding tax year, as appropriate; and the amount to be payable for the third and fourth installments shall be the full tax as levied for the current year, less the amount charged as the first and second installments: the amount thus found to be payable as the last two installments shall be divided equally for and as each installment. An appropriate adjustment by way of discount shall be made, if it shall appear that the total of the first and second installments exceeded one-half of the total tax as levied for the year.

d. (Deleted by amendment, P.L. 1994, c. 72).

e. Taxes may be received and credited as payments at any time, even prior to the dates hereinbefore fixed for payment, from the property owners, their agents or lien holders; however, no interest shall accrue until the delinquency date. Up to and including the payment date for each quarter, priority of payment shall be given to the property owner when third party tax liens exist against the property.
(cf. P.L. 1994, c. 72, s. 1)

3. R.S. 54:4-66.1 is amended to read as follows:

Taxes in municipalities operating under the State fiscal year shall be payable and shall be delinquent pursuant to the following provisions:

a. Taxes shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1, after which dates if unpaid, they shall become delinquent and remain delinquent until such time as all unpaid taxes, including taxes and other liens subsequently due and unpaid, together with interest have been fully paid and satisfied:

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the penalties hereinafter prescribed:

c. The following terms and phrases shall have the meaning defined below when calculating taxes under this section:

"Assessed value" means the net valuation taxable of each parcel of property in a municipality in the current tax year.

"Billing percentage" is used to calculate the amount required to meet municipal and non-municipal fiscal obligations for the first six months of the calendar year.

"Calendar year" means the current calendar year.

"Certification of tax billing levies" is the form and associated procedures promulgated by the director on which the tax collector calculates the appropriate billing amounts for the first and second installments of the calendar year.

"Director" means the director of the Division of Local Government Services.

"Municipal tax levy" means the tax levy set in the municipal budget for the current fiscal year.

"Non-municipal tax levy" means the total of all of the tax levies certified by the county board of taxation for non-municipal purposes for the calendar year.

"Preliminary municipal tax levy" is the amount certified by the governing body for the purposes of third and fourth installment municipal tax levy.

"Prior year" means the calendar year just previous to the quarters being billed.

"Six month required non-municipal tax levy" means the amount necessary to be paid by the municipality to the county and non-municipal taxing districts for the first six months of the calendar year.

"Total adjusted prior year taxes" means the prior year taxes billed after adjustments are made to incorporate changes to tax bills between tax billings.

"Total assessed value" means the total net valuation taxable for the municipality pursuant to the most recent Table of Aggregates promulgated by the County Board of Taxation.

d. The following formulas shall be utilized in calculating the taxes for each parcel or property:

- (1) the municipal rate shall be the preliminary municipal tax levy divided by the total assessed value per one hundred dollars of assessed valuation.
- (2) the non-municipal rate shall be the non-municipal tax levy divided by the total assessed value per one hundred dollars of assessed value.
- (3) "Municipal billing percentage" shall be the municipal tax levy less the sum of the adjusted taxes billed for the prior year third and fourth installments, divided by the total adjusted prior year taxes.
- (4) "Non-municipal billing percentage" shall be calculated by dividing the six month required non-municipal tax levy by the total adjusted prior year taxes.

e. Taxes for each parcel or property shall be calculated as follows:

- (1) The tax collector shall prepare the certification of tax billing levies and calculate the first and second installments by computing the municipal portion, which shall be the municipal billing percentage multiplied by the total adjusted prior year taxes; and then the non-municipal portion, which shall be the non-municipal billing percentage multiplied by the total adjusted prior year taxes. The sum of the two shall be divided in half for each installment. A copy of the certification shall be filed with the director and the county board of taxation.

- (2) The third and fourth installments shall be calculated by computing the municipal portion, which shall be the product of the municipal rate times the total assessed value per one hundred dollars of assessed value, and subtracting the taxes billed for the previous first and second installments; and then the non-municipal portion which shall be the product of the non-municipal rate times the total assessed value per one hundred dollars of assessed value, and subtracting the taxes billed for the

previous first and second installments. The sum of the two shall be divided in half for each installment.

f. Taxes may be received and credited as payments at any time, even prior to the dates hereinabove fixed for payment, from the property owners, their agents or lien holders; however, no interest shall accrue until the delinquency date. Up to and including the payment date for each quarter, priority of payment shall be given to the property owner when third party tax liens exist against the property. (cf. P.L. 1994, c. 72, s.2)

4. R.S.54-4-67 is amended to read as follows:

a. The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent. The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent. No such discount shall apply to the purchaser of a total property tax levy pursuant to section 16 of P.L. 1997, C. 99 (C. 54-5-13.5). The governing body may also fix the rate of interest to be charged for the nonpayment of taxes [or], assessments, or other municipal liens or charges, unless otherwise provided by law, on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable. The rate so fixed shall not exceed 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00, to be calculated from the date the tax was payable until the date that actual payment to the ~~holder~~ tax collector is made.

b. In any year when the governing body changes the rate of interest to be charged for delinquent taxes, assessments or other municipal charges, or to be charged for the end of the year penalty, the governing body, after adoption of a resolution changing the rate of interest, shall provide a notice to all taxpayers, prior to the date taxes are next due or with the tax bill, stating the new rate or rates to be charged and the date that the new rate or rates take effect. The notice may be separate from the tax bill. No change in the rate of interest or the end of year penalty shall take effect until the required notice has been provided in accordance with this subsection.

c. In municipalities that have sold their property tax levy pursuant to section 16 of P.L. 1997, c. 99 (C. 54-5-13.5), the rate of interest to be charged for the nonpayment of taxes, assessments or other municipal liens or charges shall be the same interest or delinquency rate or rates otherwise charged by the municipality, to be calculated from the date the tax was payable until the date of actual payment to the tax collector. The purchaser of the total property tax levy shall be paid only those amounts attributable to properties included in the total property tax levy purchase and actually collected by the tax collector and which amounts shall not include any delinquent interest collected by the municipal tax collector prior to the time that the total property tax levy purchaser makes the levy payment to the municipality.

"Delinquency" means the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters or years. The property shall remain delinquent, as defined herein, until such time as all unpaid taxes, including subsequent taxes and liens, together with interest thereon shall have been fully paid and satisfied. The delinquency shall remain notwithstanding the issuance of a certificate of sale pursuant to R.S. 54:5-32 and R.S. 54:5-46, the payment of delinquent tax by the purchaser of the total property tax levy pursuant to section 16 of P.L. 1997, C. 99 (C. 54:5-113.5) (now pending before the Legislature as this bill) and for the purposes of satisfying the requirements for filing any tax appeal with the county board of taxation or the State tax court. The governing body may also fix a penalty to be charged to a taxpayer with a delinquency in excess of \$10,000 who fails to pay that delinquency, as billed, prior to the end of the fiscal year. If ~~such taxes are fully~~ any fiscal year delinquency in excess of \$10,000 is paid ~~and satisfied~~ by the holder of an outstanding tax sale certificate or a total property tax levy purchaser, the holder or purchaser, as appropriate, shall be entitled to receive the amount of the penalty as part of the amount required to redeem such certificate of sale providing the payment is made by the tax lien holder or tax levy purchaser prior to the end of the fiscal year. If the holder of the outstanding tax sale certificate or the levy purchaser, as appropriate, does not make the payment in full prior to the end of the fiscal year, then the holder or purchaser shall be entitled to a pro rata share of the delinquency penalty upon redemption, and the balance of the penalty shall inure to the benefit of the municipality. The penalty so fixed shall not exceed 6% of the amount of the delinquency with respect to each most recent fiscal year only. (cf. P.L. 1994, c. 32, s. 4)

5. R.S. 54:5-19 is amended to read as follows:

When unpaid taxes or any municipal lien, or part thereof, on real property, remains in arrears on ~~April first~~ the 11th day of the eleventh month in the fiscal year following the fiscal year when the same became in arrears, ~~or in the case of municipalities that operate on the State fiscal year on October first in the fiscal year following the fiscal year when the same became in arrears,~~ the collector or other officer charged by law in the municipality with that duty, shall, subject to the provisions of the next paragraph, enforce the lien by selling the property in the manner set forth in this article, provided that the sale is conducted no earlier than in the last month of the fiscal year.

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

The municipality may by resolution direct that ~~where~~ when unpaid taxes or other municipal liens or charges, or part thereof, are in arrears ~~for more than one year~~ as of the 11th day of the eleventh month of the fiscal year, such sale shall include only such unpaid taxes or other municipal liens or charges as were in arrears in the fiscal year designated in such resolution, and may by resolution, either general or special, direct that there shall be omitted from such sale any or all such unpaid taxes, and other municipal liens, or parts thereof, on real property, upon which regular, equal

monthly installment payments are being made, in pursuance to such agreement as may be authorized by said resolution between the collector and the owner or person interested in the property upon which such delinquent taxes may be due; provided, that said agreement shall require payment of such installment payments in amounts large enough to pay in full all delinquent taxes, assessments and other municipal liens held by the municipality, in not more than five years from the date of such agreement; provided, that the extension of time for payment of such arrearages herein authorized shall not apply to any parcel of property which prior thereto has been included in any plan heretofore adopted by any municipality of this State under and pursuant to the provisions of any public statute of this State whereunder prior extensions for the payment of delinquent taxes were authorized; provided further, that the right of any person interested in such property to pay such arrears in such installments shall be conditioned on the prompt payment of the installments of taxes for the current year in which such agreement is made, and all subsequent taxes, assessments and other municipal liens imposed or becoming a lien thereafter, including all installments thereafter payable on assessments heretofore levied, and also the prompt payment of all installments of arrears as hereinbefore authorized; and provided further, that in case any such installment of arrears or any new taxes, assessments or other liens are not promptly paid, that is to say, within thirty days after the date when the same is due and payable, then such agreement shall be void, and in any such case the collector, or other officer charged by law with that duty, shall proceed to enforce such lien by selling in the manner in this article provided. (cf. P.L. 1991, c. 75, s. 43)

6. R.S. 54:5-26 is amended to read as follows:

Copies of the notice of a tax sale shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the municipality, once in each of the four calendar weeks preceding the calendar week containing the day appointed for the sale. In lieu of any two publications, notice to the property owner and to any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L. 1948, c. 96 (C. 54:5-104.48) may be given by regular or certified mail, the costs of which shall be added to the cost of the sale in addition to those provided in R.S. 54:5-38, not to exceed \$25 for each set of notices for a particular property. Failure of the property owner to receive a notice of a tax sale properly mailed by the tax collector shall not constitute grounds to void the subsequent tax sale. If ordinances of the municipality are required to be published in any special newspaper or newspapers, the notice shall be published therein. (cf. R.S. 54:5-26)

7. R.S. 54:5-49 is amended to read as follows:

a. Each certificate shall cover only such property as is assessed as one parcel, and shall be prepared ready for delivery to the purchaser within ten days after the sale, including the date of sale as the first day, or the purchaser, other than a total property tax levy purchaser, may refuse to accept it and be entitled to repayment of the purchase

price. Thereupon the lien shall be vested in the municipality and a certificate of sale shall be made to it as if originally struck off to it. The certificate shall not be invalid because delivered after the expiration of that period.

b. Tax sale certificates to be issued to the purchaser of a total property tax levy shall be issued within 10 days following the tax sale and after the final fiscal year total property tax levy payment, or thereafter, according to the contract with the municipality. A resolution of entitlement to a tax sale certificate shall be provided by the municipality on any delinquent properties in bankruptcy. Tax sale certificates shall be issued at the conclusion of the bankruptcy proceedings, or earlier, if permissible in connection with the bankruptcy proceeding, dated as of the next tax sale date upon surrender of the resolution of entitlement to the municipality.
(cf. R.S.54:5-49)

8. Section 1 of P.L.1990, c.90 (C.54:5-52.1) is amended to read as follows:

In case of the destruction or loss of a tax title certificate which was ~~acquired~~ issued by any municipality in this State at a tax sale held in that municipality ~~and the said municipality is the lawful owner thereof~~, the collector of taxes, the receiver of taxes, or the person lawfully charged with the collection of taxes in said municipality shall issue and execute a new certificate of tax sale in place of the one which has been destroyed or lost; provided, he or she shall have been duly authorized so to do by a resolution of the governing body of the said municipality ~~[-and provided, further, said original tax sale certificate had been issued at least two years prior thereto].~~ There shall appear on the new certificate a statement that it is a duplicate of the original one which was destroyed or lost and the date of said original certificate and the date of the tax sale upon which it was issued and the name and title of officer who issued same. The municipality may charge a fee not to exceed \$100 for such a duplicate certificate.
(cf. P.L.1940, c.90, s.1)

9. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

Sections a through h — no change.

ii. Expenditures related to the cost of conducting and implementing a total property tax levy pursuant to section 16 of P.L.1997, C.99 (C.54:5-113.5) now pending before the Legislature as this bill).
(cf. P.L.1994, c.72, s.6)

10. R.S.54:5-58 is amended to read as follows:

The amount required to redeem within 10 days from and including the date of sale, unless a tax sale certificate has been duly issued during the 10-day period, shall

be the sum paid at the sale, with interest from the date of sale at the rate of redemption for which the property was sold. After 10 days from the date of sale including the date of sale as the first day, or after issuance of the tax sale certificate during the 10-day period, the amount required for redemption shall be that amount plus the expenses incurred by the purchaser as hereinafter provided, and subsequent municipal liens, as provided in sections 54:5-59 and 54:5-60 of this Title. Where, because of municipal fiscal restrictions imposed upon the tax collector, the transmission of the redemption sum to the purchaser is dependent upon the approval of the governing body, or other officer, of the municipality, such interest shall be computed to the time when such governing body or officer may next act with respect thereto.
(cf. P.L.1965, c.187, s.4)

11. R.S.54:5-60 is amended to read as follows:

If the certificate of sale is not held by the municipality, the amount required for redemption shall include all sums for subsequent taxes, municipal liens and charges, and interest and costs thereon, actually paid by the holder of the tax title or his predecessor therein, together with interest on the amount so paid at the rate or rates chargeable by the municipality, provided the holder of such title shall have made and filed with the collecting officer an affidavit showing the amount of such payment, which affidavit may be taken before such officer.
(cf. R.S.54:5-60)

12 N.J.S.A. 40A:4-40.1 (New section)

a. A municipality may reduce its reserve for uncollected taxes by deducting any or all payments anticipated during the fiscal year from the sale of the total property tax levy pursuant to section 16 of P.L.1997, C.99 (C.54:5-113.5), from the reserve for uncollected taxes as calculated pursuant to N.J.S.40A:4-40 and N.J.S.40A:4-41, provided that the obligation to make such payment is entered into prior to adoption of the budget. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

b. A municipality shall not execute a contract for the sale of the total property tax levy unless the Division of Local Government Services in the Department of Community Affairs has reviewed the fiscal impact of the sale of the total property tax levy. The municipality shall forward a copy of a proposed contract and the fiscal analysis of the impact of the sale required to be provided to the municipal governing body pursuant to section 14 of P.L.1997, C.99 (C.40A:4-40.3), as soon as they are available, to the Division of Local Government Services for review. The division shall review the fiscal impact of the contract within 15 business days after receipt and shall approve or disapprove the contract in writing within that time. The director of the division may condition the approval of the contract on budget actions that the director may determine.

13. N.J.S.A. 40A:4-40.2 (New section)

A municipality may reduce its reserve for uncollected taxes by deducting any or all receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, provided that such amount be calculated in the same manner as receipts for delinquent taxes are calculated in N.J.S.40A:4-29, and that prior to adoption of the budget, such sale is authorized by resolution of the governing body. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

14. N.J.S.A. 40A:4-40.3 (New section)

Prior to the award of a contract for the sale of the total property tax levy pursuant to section 16 of P.L.1997, C.99 (C.54:5-113.5), or when a municipality chooses to reduce its reserve for uncollected taxes by deducting the receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, the chief financial officer or registered municipal accountant shall provide the governing body a fiscal analysis of the impact of the sale on the current budget and the projected budgets for the next two subsequent years. The Director of the Division of Local Government Services in the Department of Community Affairs may promulgate a standard form to be used for this purpose, which, if promulgated, shall include, but not be limited to, the amount of the reserve for uncollected taxes, receipts for delinquent taxes and the municipal tax rate. The analysis shall be a public record.

15. R.S. 54:4-67.1 (New section)

Notwithstanding the payment of any property taxes, assessments or municipal charges by the purchaser of the total property tax levy pursuant to subsection c. of section 17 of P.L.1997, C.99 (C.54:5-113.6), the accounts of any unpaid properties shall be deemed delinquent for purposes of the creation, assignment, sale, redemption, or foreclosure of tax lien certificates, or for the purpose of filing a tax appeal with the county tax board or the State tax court.

The municipality shall comply with the notice and redemption provisions relating to the creation of tax certificates as hereinafter provided, except that the municipality shall be required to issue, and the levy purchaser shall be required to accept, the tax lien certificates if the contract for the sale of the total property tax levy provides that tax lien certificates shall be issued as partial consideration for the payment of the total property tax levy purchase in connection with the sale of the total property tax levy. The purchaser of the total property tax levy shall be obligated to accept any and all liens or tax sale certificates related thereto which are included within the total property tax levy as to which the levy purchaser has advanced monies to the municipality. Upon the receipt of a duly issued tax sale certificate any tax lien purchaser shall have the right to purchase subsequent property tax delinquencies relating to those properties upon payment of the full amount of the principal and interest due.

16. R.S. 54:5-113.5 (New section)

a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality may, by resolution of the governing body, agree to sell its total property tax levy, which may include the sale of any subsequently created property tax lien certificates relating to delinquent properties, to a third party at a public sale. If the municipality decides to sell its total property tax levy, the sale shall be either by public sale with sealed bids or by public auction, to the highest responsible bidder, subject to the terms and conditions of law and the bid specifications. The sale shall be held after a copy of the public notice of sale stating the manner of submitting and method of receiving the bids and the time and place of sale has been published in a legal newspaper circulating within the municipality at least 14 days in advance of the date fixed for receiving bids.

b. A municipality, by resolution, may determine to conclude its sale of the total property tax levy in the final month of its fiscal year provided that all statutory notice requirements are followed.

17. R.S. 54:5-113.6 (New section)

Bid specifications for a contract for the sale of the total property tax levy shall be subject to the following minimum terms and conditions:

a. The municipality shall have the right to set a minimum bid price, expressed in dollars, percent of levy, or both, which may include a premium over the total property tax levy amount or a discount from the total property tax levy amount. The municipality shall reserve the right to reject any and all bids if, in the discretion of the municipality, it determines that the bid sale price is inadequate.

b. The municipality shall require the successful bidder to secure its payment obligation with either an irrevocable letter of credit or a bond from a surety or insurance company, the form and sufficiency of which is acceptable to and approved by the municipality, but which initially shall not be less than 105% of the amount of the uncollected taxes levied and payable as of the last day of the prior year or 105% of the amount actually paid by the levy purchaser in the prior year for taxes levied and payable for that year, whichever is greater, or, in the case of a levy sale concluded in the final month of the fiscal year, an amount equal to 105% of the actual tax collection delinquency for the prior fiscal year. The amount of the letter of credit or surety bond may be reduced proportionately throughout the year as the total property tax levy purchaser satisfies its payment obligation. The irrevocable letter of credit or the bond shall be provided prior to the sale of the total property tax levy becoming effective.

c. The purchaser shall pay for the total property tax levy bid amount in quarterly installments or, if there is to be one annual installment, after the last fiscal year quarterly delinquent date as indicated in the contract for the sale of the total property tax levy. These installments shall be due no earlier than 10 days, and no later than 30 days after the appropriate quarterly tax due date. Whether there is one annual installment payment prior to the end of the fiscal year as indicated in the contract for the sale of the total property tax levy or quarterly installments, in either event, the

installment shall be due upon the presentation of a certification from the tax collector stating: (1) the total amount of the total property tax levy for the quarter or year, as appropriate, (2) the amount of property taxes that are delinquent for the quarter or year, as appropriate, (3) a list of the amount of the delinquent property taxes for each property, which property shall be identified by block, lot and the name of the owner, and (4) the amount due and payable by the property tax levy purchaser pursuant to its contract with the municipality. The tax collector shall deliver the certification to the purchaser within five business days following 10 days after the quarterly tax due date. At the time of the quarterly or annual payment, as appropriate, the purchaser shall receive as a credit against the payment due, an amount equal to the taxes paid to the tax collector. If, within five business days of receipt of the certification from the tax collector, payment is not made by the total property tax levy purchaser in accordance with the contract, the municipality may charge a penalty not to exceed three times the maximum delinquent rate of interest permitted by statute until such time as the required payment is made in full. The penalty interest rate shall be set forth in the bid specifications and contract.

d. Subject to the payment of quarterly delinquent property taxes or the fiscal year delinquency by the total property tax levy purchaser as specified in the contract for the sale of the total property tax levy, the levy purchaser shall be paid, upon collection by the municipal tax collector, all delinquent taxes and other municipal charges that are owing, due and payable, subject to any contract provision pursuant to subsection h. of this section, including interest and penalties, if applicable. The municipal tax collector or chief financial officer shall remit such funds as authorized by the governing body to the levy purchaser only upon collection of the outstanding tax delinquencies, municipal liens or charges, or certificate redemptions, including interest or penalties that are due and paid to the tax collector. Such funds shall be remitted by the tax collector or chief financial officer to the total tax levy purchaser within 30 days of collection by the tax collector unless a different schedule is specified in the contract for the sale of the total property tax levy. Upon issuance of an appropriate tax sale certificate the total property tax levy purchaser may also pay subsequent taxes and other municipal liens and charges, subject to any limitations contained in the total property tax levy sale bid specifications and contract. The total property tax levy purchaser may file an action to foreclose the right to redeem the tax sale certificate, in personam, upon expiration of two years from the date of its issuance pursuant to R.S. 54:5-86 et seq.

e. The collection and enforcement of taxes and the preparation of redemption statements and discharges of tax lien certificates shall remain the right and obligation of the municipal tax collector.

f. The purchaser shall provide reports as are requested by the municipality.
g. The purchaser of the total property tax levy may be obligated by the bid specifications and contract to pay all subsequent taxes, municipal liens or other municipal charges on each tax sale certificate acquired under the total property tax levy purchase until redemption or foreclosure of the tax sale certificate has been completed, whichever occurs first. The total property tax levy purchase contract may

provide that failure to make such payments within each fiscal year shall result in the forfeiture of any such certificate and any amount due thereon and require the assignment of the certificate back to the municipality. The bid specifications and contract may include a sunset provision or provisions relating to the total property tax levy purchaser's right or obligation to pay subsequent taxes and other municipal liens and charges.

h. The bid specifications and contract may contain provisions relating to the resolution of tax appeals on properties for which the total property tax levy purchaser has acquired tax sale certificates from the municipality.

i. The bid specification and contract may permit the municipality to conduct a public tax sale and reimburse the total property tax levy purchaser from the proceeds of the tax sale.

j. In the event that a tax sale certificate is issued in connection with the sale of a total property tax levy, the account of the municipality with the total property tax levy purchaser shall be credited with the total face amount of the certificate as of the date of its issuance.

k. The bid specifications and contract may provide that the total property tax levy purchaser, at the closing of the levy sale, shall have the right, but not the obligation, to acquire by assignment all tax lien certificates held by the municipality, excluding those certificates relating to known or suspected sites of environmental contamination. This right of the purchaser may be exercised only if the purchaser's bid is equal to or greater than 98% of the combined dollar value of the total property tax levy and the full redemptive value of the municipal tax lien certificates so assigned.

18. R.S. 54:5-113.7 (New section)

The Director of the Division of Local Government Services in the Department of Community Affairs, in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), may adopt such rules and regulations as are necessary to effectuate the purposes of this act.

In addition, the Department of Community Affairs shall prepare biennially a written report on those municipalities that have entered into contracts for the sale of the total property levy and the results of those executed contracts on the municipality and the property taxpayers in the municipality. The report shall be submitted to the Governor and the Legislature, with the first report to be submitted within 48 months following the effective of P.L. 1997, C.99.

Chapter 190 Amendments

R.S. 17:12B-11 is amended to read as follows:

A mortgage upon real property or a mortgage upon a lease of the fee of real property shall be deemed a first lien as follows:

(a) A mortgage upon real property shall be deemed a first lien notwithstanding the existence of (i) a prior mortgage or mortgages held by the association, ~~[or liens of taxes or assessments which are not delinquent]~~ (ii) a municipal lien of liens, (iii) a lien of a condominium association for up to six months of customary condominium assessments pursuant to section 21 of P.L. 1969, c.257 (C.46:8B-21), or (iv) building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments which do not materially affect the security for the mortgage loan.

(b) A mortgage upon a lease of the fee of real property shall be deemed a first lien ~~[notwithstanding the existence of taxes or assessments which are not delinquent]~~ not subject to any prior lien, except for municipal liens, notwithstanding the existence of building restrictions or other restrictive covenants or conditions, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments which do not materially affect the security for the mortgage loan. Nothing herein shall alter or affect the status or priority of municipal liens under R.S. 54:5-1 et seq.

(c) A mortgage upon an apartment which is part of a horizontal property regime, established under the "Horizontal Property Act," P.L. 1963, c.168 (C.46:8A-1 et seq.) or upon a unit which is part of a condominium established pursuant to the "Condominium Act," P.L. 1969, c.257 (C.46:8B-1 et seq.) shall be deemed a first lien notwithstanding the existence of other proportionate undivided interests in the "general common elements" or "common elements" of such horizontal property regime or condominium, as the case may be, as the same are defined in the "Horizontal Property Act," and the "Condominium Act," respectively, and notwithstanding the indivisibility of such common elements or the existence of a prior mortgage or mortgages held by the association upon such apartment or unit or the existence of a prior mortgage or mortgages on other apartments or units within the particular horizontal property regime or condominium, as the case may be, regardless of whether such prior mortgages are held by the association or any other mortgagee ~~[and notwithstanding liens of taxes or assessments which are not delinquent, except for municipal liens], and notwithstanding the existence of a municipal lien or liens, building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, or other easements or encroachments which do not materially affect the security for the mortgage loan. Nothing herein shall alter or affect the status or priority of municipal liens under R.S. 54:5-1 et seq.~~

(d) Every mortgage shall be certified to be a first lien by an attorney at law of the state in which the real property is located, or certified or guaranteed to be a first lien by a corporation authorized to guarantee titles to real property in such state. (cf. P.L. 1995, c.354, s.3)

R.S. 46:8B-21 is amended to read as follows:

a. The association shall have a lien on each unit for any unpaid assessment duly made by the association for a share of common expenses or otherwise, including

any other moneys duly owed the association, upon proper notice to the appropriate unit owner, together with interest thereon and, if authorized by the master deed or bylaws, late fees, fines and reasonable attorney's fees; provided however that an association shall not record a lien in which the unpaid assessment consists solely of late fees. Such lien shall be effective from and after the time of recording in the public records of the county in which the unit is located of a claim of lien stating the description of the unit, the name of the record owner, the amount due and the date when due. Such claim of lien shall include only sums which are due and payable when the claim of lien is recorded and shall be signed and verified by an officer or agent of the association. Upon full payment of all sums secured by the lien, the party making payment shall be entitled to a recordable satisfaction of lien. Except as set forth in subsection b. of this section, all such liens shall be subordinate to any lien for past due and unpaid property taxes, the lien of any mortgage to which the unit is subject and to any other lien recorded prior to the time of recording of the claim of lien.

b. A lien recorded pursuant to subsection a. of this section shall have a limited priority over prior recorded mortgages and other liens, ~~[except that liens for unpaid property taxes]~~, except for municipal liens or liens for federal taxes, to the extent provided in this subsection. This priority shall be limited as follows:

No changes: (1) through end of subsection (c).

f. Liens for unpaid assessments may be foreclosed by suit brought in the name of the association in the same manner as a foreclosure of a mortgage on real property. The association shall have the power, unless prohibited by the master deed or bylaws to bid on the unit at foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same. Nothing herein shall alter or affect the status or priority of municipal liens under R.S. 54:5-1 et seq. (cf. P.L. 1996, c.79, s.5)

R.S.54:5-17 is amended to read as follows:

The certificate shall be substantially in the following form:

"I, _____, collector of taxes of _____, (name of municipality), hereby certify that on _____, 19____, I sold to _____ for _____ dollars, the lands in the municipality described as _____ on the tax duplicate of the municipality, and assessed thereon to _____ as owner (followed by amplified description if desired). The amount of sale was made up of the following items (followed by the items, including interest and costs). The sale is subject to redemption on repayment of the amount of the sale, together with interest thereon at the rate of _____ per cent per annum from the date of sale, and the costs incurred by the purchaser. The sale is subject only to municipal liens accruing after _____ (insert date of last item of taxes or assessment for which sale is made). ~~[The right to redeem will expire in six months after the service of notice to redeem, except that the right to redeem shall extend for six months from the date of~~

~~sale when the municipality is the purchaser and extend for two years from the date of sale for all other purchasers.]~~

"Witness my hand and seal this day of 19 (Followed by acknowledgment)." (cf. P.L. 1991, c. 75, s. 47)

R.S. 54:5-54 is amended to read as follows:

Except as hereinafter provided, the owner, his heirs, holder of ~~it~~ any prior outstanding tax lien certificate, mortgage, or occupant of land sold for municipal taxes, assessment for benefits pursuant to R.S. 54:5-7 or other municipal charges, may redeem it at any time until the right to redeem has been cut off in the manner in this chapter set forth, by paying to the collector, or to the collector of delinquent taxes on lands of the municipality where the land is situate, for the use of the purchaser, his heirs or assigns, the amount required for redemption as hereinafter set forth. (cf. P.L. 1994, c. 32, s. 8)

R.S. 54:5-55 is amended to read as follows:

The collecting officer on receiving payment in full shall ~~execute as provided in section 54:5-56 of this title;~~ execute and deliver to the person redeeming a certificate of redemption which may be recorded with the register of deeds, or if there is no register, with the county clerk. The county clerk or register, as the case may be, shall, on request, note on the record of the original certificate of sale a reference to the record of the certificate of redemption, and shall be entitled therefor to the same fees as provided respectively for the cancellation of mortgages and for the record of discharges thereof, or, at the option of the person redeeming, the collecting officer shall procure and deliver to the owner the certificate of sale receipted for cancellation by indorsement in the same manner required by law to satisfy or cancel a mortgage, whereupon the record of the certificate of sale shall be canceled by the county clerk or register, as the case may be, in the same manner and for the same fees as in the case of mortgages. (cf. R.S. 54:5-55)

R.S. 54:5-57 is amended to read as follows:

The collecting officer shall at once, on receipt of the redemption money, mail notice thereof to the purchaser, if his address can be ascertained, and shall pay all redemption moneys to him or his assigns on his surrender of the certificate of sale and compliance with the provisions of ~~sections~~ ~~section 54:5-5~~ ~~and 54:5-56~~ of this title.

R.S. 54:5-112 is amended to read as follows:

When a municipality has or shall have acquired title to real estate by reason of its having been struck off and sold to the municipality at a sale for delinquent taxes or assessments, the governing body thereof may, by resolution adopted by a majority thereof by roll call, sell such real estate at private sale to such person and for such sums, not less than the amount of municipal liens charged against the same, except as

provided in subsection a. of section 38 of P.L. 1996, c. 62 (C. 55:19-57), as shall seem to be to the best interest of the municipality. Upon the adoption of the resolution and the payment of the consideration as stated therein, the officers of the governing body authorized by resolution shall make, execute, acknowledge and deliver a deed without covenants to the purchaser, which deed shall vest in the purchaser all of the right, title and interest of the municipality in the real estate therein described. The deed need not contain any recitals, except a statement of the actual consideration. Such sales shall not include real estate, title to which has been perfected by the municipality. Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector. (cf. P.L. 1996, c. 62, s. 43)

R.S. 54:5-113 is amended to read as follows:

When a municipality has or shall have acquired title to real estate by reason of its having been struck off and sold to the municipality at a sale for delinquent taxes and assessments, the governing body thereof may by resolution authorize a private sale of the certificate of tax sale therefor, together with subsequent liens thereon, for not less than the amount of liens charged against such real estate, except as provided in section 2 of P.L. 1993, c. 113 (C. 54:5-13.1) and subsection a. of section 38 of P.L. 1996, c. 62 (C. 55:19-57). The sale shall be made by assignment executed by such officers as may be designated in the resolution. When the total amount of the municipal liens shall, at the time of the proposed sale or assignment, exceed the assessed value of the real estate as of the date of the last sale thereof for unpaid taxes and assessments, the certificates, together with subsequent liens thereon, may be sold and assigned for a sum not less than such assessed value. Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector. (cf. P.L. 1996, c. 62, s. 44)

R.S. 54:5-113.4 is amended to read as follows:

Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality may assign, pledge or transfer to the New Jersey Economic

Development Authority tax sale certificates held by the municipality for property located within its boundaries, together with subsequent liens thereon, as collateral for any bonds or notes issued by the authority or on behalf of the municipality on the same terms and conditions as set forth in section 2 of P.L. 1993, c. 113 (C.54:5-113.1) for any purposes permitted by law. For the purposes of this section "municipality" shall include municipalities acting jointly pursuant to section 2 of P.L. 1993, c. 113 (C.54:5-113.1). Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector. (cf. P.L. 1993, c. 325, s. 4)

R.S. 54:5-114.1 is amended to read as follows:

In addition to any method now provided by law the governing body of any municipality may sell any certificate of tax sale held by such municipality by one of the following methods, but such sale shall not affect or impair any municipal lien subsequent to the certificate of tax sale:

(a) At public sale to the highest bidder. Such public sale shall be held after public notice of the time and place of sale, stating the description of the several lots and parcels of land covered by the certificate of sale and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including all subsequent municipal liens with interest and costs, and stating in substance that the respective certificates of sale, not including any municipal lien subsequent thereto, will be sold to the highest bidder at said public sale, subject to confirmation by the governing body at its next regular meeting after the sale. Copies of the notice shall be set up in five of the most public places in the municipality and a copy of the notice shall be published in a newspaper circulating in the municipality once in each of two calendar weeks preceding the calendar week containing the day appointed for the sale. When the owner's name appears in the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of the notice, but failure to mail the notice shall not invalidate any proceeding hereunder. Such public sale may be adjourned once for a period not exceeding one week without readvertising; or

(b) The governing body may from time to time determine by resolution the certificates of tax sale held by such municipality which such municipality will agree to sell for an amount lower than the amount due on each such certificate of tax sale. After such determination the municipality shall give public notice set up in five of the most public places in such municipality, stating the description of the several lots and parcels of land covered by such certificate of sale and the name of the owner of the land as contained in the collector's list, together with the total amount required for

redemption including all subsequent municipal liens with interest and costs, and stating in substance that the municipality will receive bids for any such certificate of sale, not including any municipal liens subsequent thereto, even though such bid be less than the amount due on such certificate of tax sale. Upon the receipt of any bid for any such certificate of sale, not including any municipal liens subsequent thereof, which the governing body may be inclined to accept, the governing body shall give public notice setting forth the amount of the bid for the certificate of sale, not including any municipal liens subsequent thereto, the description of the several lots and parcels of land covered by such certificate of sale, the name of the owner of the land as contained in the collector's list, and also the total amount which would otherwise be required for redemption, and stating in substance that the governing body will accept or reject such bid at a regular meeting of the governing body and setting forth the place, time and date of such regular meeting. A copy of this last-mentioned public notice shall be set up in five of the most public places in the municipality and a copy of the same shall be published in a newspaper circulating in the municipality at least once in the week preceding the date set for the regular meeting of the governing body at which meeting such bid will be passed upon. When the owner's name appears in the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of this last-mentioned notice, but failure to mail the notice shall not invalidate any proceeding hereunder. At the regular meeting of the governing body, as contained in said notice, the governing body may accept or reject any such bid as contained in such notice or may at such meeting accept or reject any higher bid which may then be made for said certificate of sale, not including any municipal liens subsequent thereto, by any person.

Any and all assignments of a tax sale certificate purchased pursuant to this section shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector. (cf. P.L. 1941, c. 232, s. 1)

R.S. 54:5-114.2 is amended to read as follows:

The governing body of any municipality may sell any certificate of tax sale including all subsequent municipal liens held by such municipality by one of the following methods:

(a) At public sale to the highest bidder. Such sale shall be held after public notice of the time and place stating the description of the several lots and parcels of land covered by the certificate of sale, and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including interest and costs to the date of sale and the amount of subsequent liens with interest, and stating in substance that the respective certificates of sale, including

subsequent municipal liens will be sold to the highest bidder at said public sale subject to confirmation by the governing body at its next regular meeting after the sale. Copies of the notice shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the municipality once in each of two calendar weeks preceding the calendar week containing the day appointed for the sale. When the owner's name appears on the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of the notice, but failure to mail the notice shall not invalidate any proceedings hereunder. Such public sale may be adjourned once for a period not exceeding one month without readvertising; or

(b) The governing body may from time to time determine by resolution the certificates of tax sale including all subsequent liens held by such municipality which such municipality deems advisable to sell for an amount lower than the total amount due, together with interest and costs on the certificate of sale. After such determination the municipality shall give public notice set up in five of the most public places in such municipality, stating the description of the several lots and parcels of land covered by such certificate of sale and subsequent municipal liens and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including all subsequent municipal liens with interest and costs and stating in substance that the municipality will receive bids for any such certificate of tax sale and subsequent municipal liens, even though such bid be less than the total amount due on such certificate of tax sale including all subsequent liens plus interests and costs. Upon the receipt of any bid which the governing body may be inclined to accept, the governing body shall give public notice setting forth the amount of the bid for the certificate of tax sale including subsequent municipal liens together with interest and costs, the description of the several lots and parcels of land covered by such certificate of sale and subsequent municipal liens, the name of the owner of the land as contained in the collector's list and also the total amount which would otherwise be required for redemption to the date of proposed sale and stating in substance that the governing body will accept or reject such bid at a regular meeting of the governing body and setting forth the place, time and date of such regular meeting. A copy of this last-mentioned public notice shall be published in a newspaper circulating in the municipality at least once in the week preceding the date set for the regular meeting of the governing body at which meeting such bid will be passed on. When the owner's name appears in the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of this last-mentioned notice, but failure to mail the notice, shall not invalidate any proceeding hereunder. At the regular meeting of the governing body, as contained in said notice, the governing body may accept or reject any such bid as contained in such notice or may at such meeting accept or reject any higher bid which may then be made by any person for said certificate of sale, including subsequent municipal liens.

Any and all assignments of a tax sale certificate purchased pursuant to this section shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy

of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

(cf. P.L. 1943, c. 149, s. 1)

R.S. 54:5-114.4 is amended to read as follows:

Any and all purchasers of the tax sale certificates and subsequent municipal liens purchased, as hereinabove described, must foreclose at their own expense, the right of redemption, and record the final judgment in the county wherein the land is situate within two years from the date of the confirmation of the sale by the governing body. ~~Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.~~

(cf. P.L. 1953, c. 51, s. 97)