The NJ Abandoned Property Rehabilitation Act (APRA) was enacted into law January 8, 2004. It offers New Jersey’s municipalities and others a toolkit of additional means by which they can gain control of abandoned properties and restore them to productive use. One such tool is accelerated foreclosure.

What is Accelerated Foreclosure?

APRA amends the state Tax Sale Law, N.J.S.A 54:5-86, to grant significant powers to third party tax lien buyers and municipalities holding tax liens to both foreclose on and to stabilize abandoned properties.

How Does it Work?

The accelerated foreclosure provisions of the act provide two remedies:

- Allow for the immediate initiation of foreclosure proceedings by tax lien holders, whether third party holders or municipalities, on abandoned properties.
- Grant lienholders the right of entry to abandoned properties in order to make repairs, abate nuisances, and preserve the value of the property.

The buyer of a tax sale certificate on an abandoned property, either at the time of tax sale or thereafter, may immediately file an action to foreclose on the property. The two year waiting period otherwise required for foreclosure by a third party, or the six month period required of municipalities, are eliminated with respect to abandoned properties.

The tax lien holder also has the right, from the date that the tax sale certificate was purchased, to enter the property after written notice by certified mail to the owner, in order to make repairs or remedy harmful conditions (N.J.S.A. 54:5-86(c)). Although the statute does not specify a minimum period after giving notice before entering on the property, it is advisable to wait 10 days, the period specified in N.J.S.A. 55:19-56(b).

Criteria and Process

Initiating Accelerated Foreclosure

While the property must meet the definition of an abandoned property to be subject to the provisions of this section, it need not be on a municipal abandoned property list. If the municipality has an abandoned property list, and the property is already on that list, it automatically meets the criterion for accelerated foreclosure. If not, the lienholder should obtain a certification, affidavit or similar document from the municipal public officer that the property meets the definition of abandoned property. The law requires that the public officer, or tax collector, as appropriate provide a lienholder in timely fashion with a certification that the property fulfills the definition of abandoned property.

Right of Entry

A lienholder may remedy not only health and safety hazards, but can also remedy conditions that “materially reduce the value of the property.” The intent of this language is to give the lienholder the ability to make repairs to conditions that are leading to continued deterioration of the property, such as roof repairs to prevent water damage. It should not be construed, however, to go so far as to include the complete rehabilitation of the property, which should wait until the lienholder has obtained title. The lienholder can add the repair or nuisance abatement costs incurred to the balance that the owner must pay in order to redeem the property (N.J.S.A. 54:5-86(d)) by filing an affidavit with the municipal tax collector.