



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 22, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 415, an Act relating to the acquisition of title to disaster-affected abandoned property by cities in certain years and authorizing cities to establish a property rights defense account.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 415

AN ACT

RELATING TO THE ACQUISITION OF TITLE TO DISASTER-AFFECTED
ABANDONED PROPERTY BY CITIES IN CERTAIN YEARS AND
AUTHORIZING CITIES TO ESTABLISH A PROPERTY RIGHTS
DEFENSE ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 384.3A PROPERTY RIGHTS DEFENSE
ACCOUNT.

1. A city may establish a property rights defense account within the city's general fund. If a property rights defense account is established under this section, moneys which remain unclaimed under section 2, subsection 11, paragraph "d", of this Act, may be deposited in the account. Interest or earnings on moneys in the property rights defense account shall be credited to the account. Moneys in the property rights defense account are not subject to transfer, appropriation, or reversion to any other account or fund, or any other use except as provided in this section.

2. Moneys in the account shall be used for the reimbursement of reasonable attorney fees and reasonable costs incurred by a property owner as the result of proceedings initiated under this Act, chapters 6A and 6B, and section 657A.10A.

3. Property owners shall apply to the city council on a form prescribed by the city council. If sufficient funds exist in the account, the city council shall reimburse each property owner who applies for all reasonable attorney fees and reasonable costs incurred. If insufficient funds exist in the account to reimburse a property owner for all reasonable

attorney fees and reasonable costs incurred, the city council shall reimburse the property owner for the fees and costs in an amount equal to the remaining balance in account.

Sec. 2. PETITION BY CITY FOR TITLE TO DISASTER-AFFECTED ABANDONED PROPERTY.

1. In lieu of the procedures in sections 657A.2 through 657A.10A, a city in which a disaster-affected abandoned building is located may petition the court to enter judgment awarding title to the disaster-affected abandoned property to the city. For the purposes of this section, "disaster-affected abandoned building" means a building that is abandoned as defined in section 657A.1, and the land the building is located on, that was damaged by a disaster as defined in section 29C.2 between May 1, 2008, and September 1, 2008, that is located in an area for which the governor proclaimed a state of disaster emergency during 2008, that constitutes a public nuisance, and that is not feasible to rehabilitate.

2. At least thirty days prior to filing a petition for title to disaster-affected abandoned property under this section, the city shall attempt to notify the owner of the property of the city's intent to acquire the property. The city shall mail the notice by certified mail to the owner at the owner's last known address, to any contract purchaser of record of the property, to any tenant known to be occupying the property, and to any record lienholder or encumbrancer of the property at the lienholder's or encumbrancer's last known address. The city shall also cause the notice to be posted in a conspicuous place on the building.

3. a. If more than one disaster-affected abandoned building is located on a parcel of real estate, the city may combine the actions into one petition. The owner of the building and land, mortgagees of record, lienholders or encumbrancers of record, the county in which the property is located if delinquent property taxes are owing, the holder of tax sale certificates, and other known persons who hold an interest in the property shall be named as respondents on the petition.

b. The petition shall be filed in the district court of the county in which the property is located. A petition under this section shall be filed not later than December 31, 2010. The action shall be in equity.

4. a. Service on the owner and any other named respondents shall be by certified mail. The petition shall be mailed to each respondent at the respondent's last known address as reflected in county records. The city shall also cause the petition to be published once in a newspaper of general circulation in the county within ten days of the petition being filed. Service of the petition shall be deemed complete on the date of publication.

b. In lieu of mailing and publishing the petition, the city may cause the petition to be served upon such persons in the manner provided by the Iowa rules of civil procedure for the personal service of original notice.

c. In addition to notice provided under paragraph "a" or paragraph "b", the city shall also cause notice of the petition to be posted in a conspicuous place on the building.

5. The city shall set forth in the petition all public nuisance conditions existing on the property, the fair market value of the property in the property's condition existing on the date the petition is filed as determined by an appraisal prepared for the city, the amount of delinquent property taxes or special assessments on the property, and evidence that the city has attempted to provide notice under subsection 2. A copy of the appraisal shall be attached to the petition.

6. The city may request a hearing on the petition not sooner than sixty days after the filing of the petition. Notice of the hearing shall be provided to all respondents in the manner provided in subsection 4. Notice of the hearing shall be given not less than thirty days prior to the date of the hearing.

7. Notwithstanding any provision of this section to the contrary, the district court shall dismiss the petition upon receipt of a written request from the property owner to do so. The property owner shall also provide notice of the request to the petitioning city.

8. In determining whether a property is a disaster-affected abandoned building, the court shall consider the following for each building that is located on the property and named in the petition and the building grounds:

a. Whether any property taxes or special assessments on the property were delinquent at the time the petition was filed.

b. Whether any utilities are currently being provided to the property.

c. Whether the building is unoccupied by the owner or lessees or licensees of the owner.

d. Whether the building meets the city's housing code for being fit for human habitation, occupancy, or use.

e. Whether the building is exposed to the elements such that deterioration of the building is occurring.

f. Whether the building is boarded up.

g. Past efforts to rehabilitate the building and grounds.

h. The presence of vermin, accumulation of debris, and uncut vegetation.

i. Other public nuisance conditions existing on the property.

j. Past and current compliance with orders of the local housing official.

k. Any other evidence the court deems relevant.

9. In lieu of the considerations in subsection 8, if the city can establish to the court's satisfaction that all parties with an interest in the property have received proper notice and consented to the entry of an order awarding title to the property to the city, the court shall enter judgment against the respondents granting the city title to the property.

10. If the court determines that the property is a disaster-affected abandoned building or that subsection 9 applies, the court shall enter judgment awarding title to the city and shall determine an award of damages pursuant to subsection 11. The title awarded to the city shall be free and clear of any claims, liens, or encumbrances held by the respondents.

11. a. If the court awards title of the property to the city, the court shall order the city to pay an award to the respondents in an amount equal to the fair market value of the property in its current condition. The city shall deposit the award with the clerk of the district court. Upon deposit of the amount awarded with the clerk of the district court, title to the property shall pass to the city, and the city may take possession of the property.

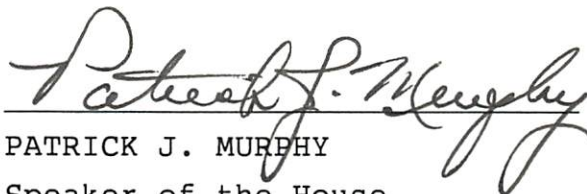
b. Notice of the deposit with the clerk of the district court shall be provided to all respondents in the manner provided in subsection 4.

c. The court shall retain jurisdiction of the action to determine the priority of liens and other interests of each respondent in the amount deposited with the clerk of the district court. Upon the request of any respondent, the court shall apportion the amount deposited with the clerk of the district court among the respondents.

d. If the amount deposited with the clerk of the district court is not claimed within two years of the date of deposit, the clerk of the district court shall transfer the money to the city for deposit in the city's property rights defense account or in the general fund of the city.



JOHN P. KIBBIE
President of the Senate



PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 415, Eighty-third General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 22nd, 2009



CHESTER J. CULVER
Governor