

Senate Study Bill 1301

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the acquisition of title to abandoned property
2 by cities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2678SC 83
5 md/sc/14

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1 1 Section 1. Section 657A.10A, Code 2009, is amended to read
1 2 as follows:

1 3 657A.10A PETITION BY CITY FOR TITLE TO ABANDONED PROPERTY.

1 4 1. In lieu of the procedures in sections 657A.2 through
1 5 657A.10, a city in which an abandoned building is located may
1 6 petition the court to enter judgment awarding title to the
1 7 abandoned property to the city.

1 8 2. At least thirty days prior to filing a petition for
1 9 title to abandoned property under this section, the city shall
1 10 attempt to notify the owner of the property of the city's
1 11 intent to acquire the property. The city shall mail the
1 12 notice by certified mail to the owner at the owner's last
1 13 known address, to any contract purchaser of record of the
1 14 property, to any tenant known to be occupying the property,
1 15 and to any record lienholder or encumbrancer of the property
1 16 at the lienholder's or encumbrancer's last known address. The
1 17 city shall also cause the notice to be posted in a conspicuous
1 18 place on the building.

1 19 3. a. If more than one abandoned building is located on a
1 20 parcel of real estate, the city may combine the actions into
1 21 one petition. The owner of the building and grounds,
1 22 mortgagees of record, lienholders or encumbrancers of record,
1 23 ~~or the county in which the property is located if delinquent~~
1 24 ~~property taxes are owing, the holder of tax sale certificates,~~
1 25 ~~and other known persons who hold an interest in the property~~
1 26 ~~shall be named as respondents on the petition.~~

1 27 b. The petition shall be filed in the district court of
1 28 the county in which the property is located. ~~Service on the~~
1 29 ~~owner and any other named respondents shall be by certified~~
1 30 ~~mail and by posting the notice in a conspicuous place on the~~
1 31 ~~building. The action shall be in equity.~~

1 32 4. a. Service on the owner and any other named
1 33 respondents shall be by certified mail. The petition shall be
1 34 mailed to each respondent at the respondent's last known
1 35 address as reflected in county records. The city shall also
2 1 cause the petition to be published once in a newspaper of
2 2 general circulation in the county within ten days of the
2 3 petition being filed. Service of the petition shall be deemed
2 4 complete on the date of publication.

2 5 b. In lieu of mailing and publishing the petition, the
2 6 city may cause the petition to be served upon such persons in
2 7 the manner provided by the Iowa rules of civil procedure for
2 8 the personal service of original notice.

2 9 c. In addition to notice provided under paragraph "a" or
2 10 paragraph "b", the city shall also cause notice of the
2 11 petition to be posted in a conspicuous place on the building.

2 12 5. The city shall set forth in the petition the fair
2 13 market value of the property in the property's condition
2 14 existing on the date the petition is filed as determined by an
2 15 appraisal prepared for the city, the amount of delinquent
2 16 property taxes or special assessments on the property, and
2 17 evidence that the city has attempted to provide notice under
2 18 subsection 2. A copy of the appraisal shall be attached to

2 19 the petition.
2 20 ~~2- 6. Not~~ The city may request a hearing on the petition
2 21 not sooner than sixty days after the filing of the petition.
2 22 the city may request a hearing on the petition. Notice of the
2 23 hearing shall be provided to all respondents in the manner
2 24 provided in subsection 4. Notice of the hearing shall be
2 25 given not less than thirty days prior to the date of the
2 26 hearing.

2 27 ~~3- 7.~~ In determining whether a property has been
2 28 abandoned, the court shall consider the following for each
2 29 building that is located on the property and named in the
2 30 petition and the building grounds:
2 31 a. Whether any property taxes or special assessments on
2 32 the property were delinquent at the time the petition was
2 33 filed.
2 34 b. Whether any utilities are currently being provided to
2 35 the property.
3 1 c. Whether the building is unoccupied by the owner or
3 2 lessees or licensees of the owner.
3 3 d. Whether the building meets the city's housing code for
3 4 being fit for human habitation, occupancy, or use.
3 5 e. Whether the building is exposed to the elements such
3 6 that deterioration of the building is occurring.
3 7 f. Whether the building is boarded up.
3 8 g. Past efforts to rehabilitate the building and grounds.
3 9 h. The presence of vermin, accumulation of debris, and
3 10 uncut vegetation.
3 11 i. The effort expended by the petitioning city to maintain
3 12 the building and grounds.
3 13 j. Past and current compliance with orders of the local
3 14 housing official.
3 15 k. Any other evidence the court deems relevant.

3 16 ~~4- 8.~~ In lieu of the considerations in subsection ~~3 7~~, if
3 17 the city can establish to the court's satisfaction that all
3 18 parties with an interest in the property have received proper
3 19 notice and ~~either~~ consented to the entry of an order awarding
3 20 title to the property to the city ~~or did not make a good faith~~
3 21 ~~effort to comply with the order of the local housing official~~
3 22 ~~within sixty days after the filing of the petition~~, the court
3 23 shall enter judgment against the respondents granting the city
3 24 title to the property.

3 25 ~~5- 9.~~ If the court determines that the property has been
3 26 abandoned or that subsection ~~4 8~~ applies, the court shall
3 27 enter judgment awarding title to the city and shall determine
3 28 an award of damages pursuant to subsection 10. The title
3 29 awarded to the city shall be free and clear of any claims,
3 30 liens, or encumbrances held by the respondents.

3 31 10. a. If the court awards title of the property to the
3 32 city, the court shall award to the respondents the fair market
3 33 value of the property and shall give consideration to the
3 34 value of the property in its current condition and the costs
3 35 that may be incurred in cleaning up or repairing the property.
4 1 b. The city may take possession of the property upon
4 2 deposit of the amount awarded with the clerk of the district
4 3 court. Notice of the deposit with the clerk of the district
4 4 court shall be provided to all respondents in the manner
4 5 provided in subsection 4. If the amount deposited with the
4 6 clerk of the district court is not claimed within two years of
4 7 the date of deposit, the clerk of the district court shall
4 8 transfer the money to the city for deposit in the general fund
4 9 of the city.

4 10 EXPLANATION

4 11 This bill amends Code section 657A.10A relating to the
4 12 authority of a city to petition a court to enter judgment
4 13 awarding title to abandoned property located in the city.
4 14 The bill requires the city to attempt to notify the owner
4 15 and other specified interest holders of the property by
4 16 certified mail of the city's intent to acquire the property at
4 17 least 30 days prior to filing a petition. The bill also
4 18 requires the city to post the notice in a conspicuous place on
4 19 the building.
4 20 The bill also amends the requirements for providing notice
4 21 of the petition to the owner and other respondents by, in
4 22 addition to posting the petition in a conspicuous place on the
4 23 building, requiring service by certified mail and publication
4 24 in a newspaper of general circulation, or personal service
4 25 pursuant to the requirements of the Iowa rules of civil
4 26 procedure.
4 27 The bill requires the city to set forth in the petition the
4 28 fair market value of the property in the property's condition
4 29 existing on the date the petition is filed as determined by an

4 30 appraisal prepared for the city, the amount of delinquent
4 31 property taxes or special assessments on the property, and
4 32 evidence that the city attempted to notify the owner and
4 33 interest holders prior to filing the petition. The city is
4 34 required to attach a copy of the appraisal to the petition.
4 35 The bill requires the city to provide notice of a hearing,
5 1 if a hearing is requested.
5 2 The bill requires the city to pay an award of damages to
5 3 the respondents if the city is awarded title to the property.
5 4 An award is required to be equal to the fair market value of
5 5 the property in its current condition, including consideration
5 6 of the costs that may be incurred in cleaning up or repairing
5 7 the property. The bill authorizes the city to take possession
5 8 of the property upon deposit of the award with the clerk of
5 9 the district court. Notice of the deposit with the clerk of
5 10 the district court must be provided to all respondents. Under
5 11 the bill, if the amount deposited with the clerk of the
5 12 district court is not claimed within two years of the date of
5 13 deposit, the clerk of the district court is required to
5 14 transfer the money to the city for deposit in the city's
5 15 general fund.
5 16 LSB 2678SC 83
5 17 md/sc/14