VACANT PROPERTY REGISTRATION FEES

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OPINION NO: 2022-0001

On January 18, 2022, Governor Murphy signed Assembly Bill No. 2877 which is codified as Chapter 444 of the Laws of 2021. This new law for the first time provided statutory authority for municipalities in the State of New Jersey to enact Vacant Property Registration ordinances.

This new law also provides a mechanism for a municipality to turn unpaid Vacant Property Registration (hereinafter "VPR") fees into municipal liens. Hence, this new statute now overrules my legal opinion 2017-0001 which indicated that VPR fees could not be turned into municipal liens.

It is important to note from the outset that these new ordinances can only apply to residential and commercial mortgage foreclosures. The new law does not apply to tax sale foreclosures and provides no statutory authority for a municipality to attempt to charge VPR fees to the holder of a tax sale certificate.

The new law refers to the term creditor and defines same to mean a mortgagee or an agent or assignee of a mortgagee such as a servicer of mortgages who has filed a complaint in the Superior Court of New Jersey seeking to foreclose said mortgage. The new law applies to both residential and commercial mortgage foreclosures.

A municipality may now enact an ordinance that requires a creditor to register its property on an annual or semi-annual basis. The triggering event would be the filing of a mortgage foreclosure complaint. It does not matter if the property is vacant or not. It still must be registered.

However, the fee structure does depend on whether the property is vacant or not. The new law allows a municipality to charge an annual VRP fee of up to $500.00 per property. If the property is vacant and abandoned, an additional $2,000.00 per property can be charged annually. The new law sets forth the list of criteria as to whether the property is deemed vacant and abandoned. A property is considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant. You must also meet two additional criteria that is contained in the list in the statute.

The new law also makes it lawful to contract with a third-party to operate a Property Registration Program. It allows a third-party to collect the VPR fees and then pay same over to the municipality. It allows the third-party to charge interest at the delinquency rate for unpaid taxes for late payment of property registration fees. It also provides that a third-party entity, may file a certification with the municipal tax collector to enforce tax liens for all unpaid VPR program fees due and owing at the time of the certification is filed. It is assumed that if the municipality conducts its own program, it may also be able to file such a certification.

The law provides that not less than 20% of any money collected for VPR fees must be utilized by the municipality for municipal code enforcement purposes. The new law also allows creditors to be written up in municipal court and fined up to $2,500.00 for failing to comply with the lawful requirement to register property.

Therefore, it is assumed that your municipal attorneys will review the new law and properly prepare a lawful ordinance. Depending on whether the municipality decides to contract the VPR fee to an outside third-party entity or handle it itself, will depend upon your role. If it is contracted to a third-party entity, your role will simply be one of turning unpaid VPR charges into municipal liens very similar to what you would do on a utility charge. If the municipality choses to conduct the VPR program itself, then it will be up to the municipality as to how to delegate duties within the municipality.