



## Memorandum

### *Via Email*

**Date:** June 29, 2022

**To:** Honorable Mayor and Township Committee  
Tim Killion, Township Administrator  
Pamela Scott-Forman, CMR, Municipal Clerk  
Shakir Ali, C.T.A./Dir. of Regulatory Services  
Elizabeth Peddicord, CFO

**From:** Linda A. Galella, Esquire

**Re:** Revisions to Vacant and Abandoned Property Ordinance- Chapter 244 of Pennsauken Code

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By way of background, on August 16, 2021, Judge Mendez of the Superior Court of New Jersey, Law Division, Atlantic County, issued a decision in McCormick 106 L.L.C. v. Community Champions Corporation d/b/a Pro Champs; Township of Galloway; Township of Hamilton, Docket No. ATL-L-2311-18. Like Pennsauken, several Atlantic County municipalities maintained vacant and abandoned property registries administered by Pro Champs. In relevant part, Judge Mendez held the vacant and abandoned property ordinance and the associated fee structures in those Atlantic County towns were arbitrary, capricious, and unreasonable. The Judge further held that the ordinances included overly broad and unreasonable definitions for “vacant and abandoned property,” and Pro Champs was improperly delegated municipal functions without enabling legislation.

While the McCormick decision was pending appeal with the Appellate Division, the New Jersey Legislature adopted P.L. 2021, c.444 on January 18, 2022. This law is now codified in N.J.S.A. 40:48-2.12s1. The new law now authorizes municipalities to adopt ordinances establishing vacant and abandoned property registries. These registries may be administered by

**COUNSEL WHEN IT MATTERS.<sup>SM</sup>**



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third-party vendors like Pro Champs, or by other public entities through shared services agreements. The legislation defines “vacant and abandoned” and “creditors,” provides notice and registration requirements for creditors, and establishes registration fees and penalties for ordinance violations.

Please note, annual registration fees are now capped at \$500 per property, plus an additional \$2,000 per property if it is or becomes vacant and abandoned once the foreclosure action is filed. Note, this is greatly reduced from Pennsauken’s current ordinance which provides the following fees: first year- \$500 every 6 months; second year- \$1,000 every 6 months; third year \$1,500 every six months and all subsequent 6 month periods \$2,000.

Pursuant to N.J.S.A. 40:48-2.12s1, municipalities must amend already-existing ordinances or adopt new ordinances addressing vacant and abandoned properties by August 1, 2022. Since Article II, Chapter 244 of the Township Code establishes the vacant and abandoned property registration program, it must be amended to comply with N.J.S.A. 40:48-2.12s1 before the law’s upcoming deadline. Thus, this Ordinance should be adopted in July.

The New Jersey Department of Community Affairs drafted and circulated a model ordinance to simplify adoption of N.J.S.A. 40:48-2.12s1. To comply with the new law, our office has prepared a draft ordinance (attached hereto) which incorporates the model ordinance, but also includes sections of Pennsauken’s current vacant and abandoned property ordinance, such as the maintenance and security requirements. The draft ordinance repeals Pennsauken’s current vacant and abandoned property ordinance located in Article II of Chapter 244 and replaces it with significant portions of the model ordinance.

Other revisions included in the draft ordinance:

- Definitions that are no longer needed were removed from the definition section.
- The definition of “Abandoned Property List” was added to the definition section to delineate the two separate lists/ registries i.e. vacant and abandoned property registry vs. abandoned property registry.
- Article II now creates the vacant and abandoned properties registry pursuant to N.J.S.A. 40:48-2.12s1.



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- Article III creates the abandoned property registry pursuant to the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, *et seq.* and P.L. 2003, c.210.
- Pennsauken Ordinance Sections 244-9 through 244-32 of Chapter 244 dealing with Abandoned Property Designation Program were not changed.

Please review this draft Ordinance and let me know if you have any questions or comments.

Enclosure

4883-1220-5861, v. 2