
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2523 Session of
1998

INTRODUCED BY REINARD, FICHTER, STABACK, CARONE, PETRONE, COY,
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APRIL 22, 1998

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 22, 1998

AN ACT

1 Providing for court-appointed receivers to bring residential
2 buildings into municipal code compliance when owners fail to
3 do so.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Blighted
8 Property Receivership Act.

9 Section 2. Legislative declaration and findings.

10 The General Assembly finds and declares as follows:

11 (1) Many citizens of this Commonwealth are required to
12 reside in dwelling units located in buildings which fail to
13 meet municipal building and housing codes for public safety
14 and sanitation. In addition, they are also compelled to pay
15 rents disproportionate to the value of the housing
16 accommodations and services received.

17 (2) The buildings in which these rental housing units

1 are located, when left to further deteriorate, are not only
2 unsafe for occupants but also create a blighting effect on
3 adjacent property and the neighborhood in general, robbing
4 property owners in the neighborhood of the equity in their
5 property.

6 (3) If not rehabilitated and brought into code
7 compliance, these buildings will ultimately have to be
8 abandoned, resulting in increased costs to the Commonwealth,
9 municipality and taxpayers to board up and ultimately
10 demolish these buildings.

11 (4) If it becomes necessary to ultimately abandon a
12 building, existing tenants will be displaced, disrupting
13 lives and adding to the affordable housing problems of the
14 municipality and the Commonwealth, as many displaced tenants
15 may become homeless.

16 (5) As a result of the aforementioned, the General
17 Assembly declares that if the owner of a residential building
18 that has been declared to be a public nuisance or is in
19 violation of municipal building and housing code requirements
20 fails to correct such code violations, it is in the best
21 interests of the Commonwealth, the municipality and the
22 tenants for the court, pursuant to the provisions of this
23 act, to appoint a receiver to make the necessary improvements
24 to bring the building into code compliance before the
25 building deteriorates further and necessitates abandonment
26 and demolition, resulting in the displacement of the existing
27 tenants occupying the building.

28 Section 3. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Code." Any building, housing, property maintenance, fire or
3 other public safety ordinance enacted by a municipality.

4 "Competent person." Any person with general experience in
5 the operation and maintenance of multifamily rental properties.

6 "Court." The appropriate court of common pleas.

7 "Municipality." Any city of the first, second, second class
8 A or third class, any township of the first or second class and
9 any borough.

10 "Nonprofit corporation." Any nonprofit corporation organized
11 for the purpose of initiating community development activities,
12 including housing.

13 "Owner." The holder or holders of the title in fee simple.

14 "Parties in interest." All individuals, associations and
15 corporations who have interests of record in a multifamily
16 dwelling and who are in actual possession thereof and any person
17 authorized to receive rents payable for housing accommodations
18 in a multifamily apartment building.

19 "Residential building." Includes any building or structure
20 and land appurtenant thereto containing one or more apartments.

21 Section 4. Petition for receiver.

22 (a) Requirements.--Any municipality, nonprofit corporation
23 or group of tenants representing at least 51% of the occupied
24 units in a residential building may petition the court for the
25 appointment of a receiver to assume the operation and
26 maintenance of the building if:

27 (1) (i) all or a portion of the building is currently
28 occupied by tenants; and

29 (ii) the building is currently in violation of any
30 municipal building or housing code requirements and the

1 violation or violations have persisted, unabated, for at
2 least 90 days since the initial charge; and/or

3 (2) the building has been declared a public nuisance by
4 the municipality.

5 (b) Contents.--The petition submitted to the court shall
6 include:

7 (1) A copy of the original citation charging the
8 property owner with being in violation of municipal building
9 codes requirements or declaring the property to be a public
10 nuisance.

11 (2) Evidence that would indicate that the code
12 violations or nuisance will not voluntarily be abated unless
13 a receiver is appointed by the court.

14 (3) Evidence that show the appointment of a receiver is
15 in the best interest of the tenants, municipality and the
16 surrounding neighborhood.

17 (4) Evidence that would indicate that not appointing a
18 receiver to rehabilitate the structure may result in the
19 further deterioration of the building, the loss of equity by
20 owners of adjacent property as a result of the blighting
21 effect the building will have on the neighborhood in its
22 present condition and the potential loss of existing rental
23 units and the need to relocate tenants as the building
24 further deteriorates.

25 (5) The estimated cost of bringing the property into
26 compliance with all municipal codes.

27 (6) Recommendations as to who the court should appoint
28 as the receiver. A petitioner may recommend a specific
29 nonprofit corporation or specific person capable of managing
30 the property and rehabilitating it.

1 (c) Notification of property owner.--The petitioner shall
2 notify the current property owner of the petition by certified
3 mail immediately upon submitting the petition to the court.

4 (d) Mortgagees and lienholders.--Upon receipt of service of
5 any petition in which the appointment of a receiver is sought,
6 the owner of the property shall provide to the court within
7 seven days a written list of all mortgagees and lienholders of
8 record. At least seven days prior to any hearing in any such
9 proceeding, the petitioner shall send by certified or registered
10 mail a copy of the petition to all mortgagees and lienholders
11 included in the owner's list, as well as to all other mortgagees
12 and lienholders of which the petitioner may be aware and shall
13 notify them of the time and place of the hearing.

14 Section 5. Appointment of receiver.

15 (a) Court action.--The court shall act upon any petition
16 submitted by holding a hearing within 60 days of receipt of the
17 petition.

18 (b) Hearing.--At the hearing, the property owner will be
19 permitted to present evidence as to the property owner's ability
20 to bring the property into compliance with all municipal codes.
21 If the court determines the property owner has the ability to
22 bring the property into code compliance, possession of the
23 property may remain with the current property owner. If
24 possession remains with the current property owner, abatement of
25 all code violations must commence within 30 days. The court may
26 require the property owner to post a bond in the amount of the
27 repair costs estimated in the petition, as a condition to
28 retaining possession of the property.

29 (c) Appointment.--If the court determines that the code
30 violations are not likely to be abated in a timely fashion

1 without the appointment of a receiver and believes the
2 appointment of a receiver is in the best interests of the
3 tenants, the court shall appoint a receiver for the property.

4 (d) Nonprofit corporation.--If the court appoints a
5 receiver, the court shall appoint a competent nonprofit
6 corporation as receiver or a competent person in the absence of
7 a qualified nonprofit corporation. The court shall consider any
8 recommendations contained in the petition in appointing a
9 receiver.

10 (e) Immediate possession.--The receiver shall take
11 possession upon appointment and immediately be authorized to
12 exercise all powers delegated by this act.

13 (f) Removal by court.--Any receiver appointed may be removed
14 by the court upon a showing that the receiver is not diligently
15 carrying out the work necessary to bring the property into code
16 compliance or that it is in the best interest of any tenants
17 residing in the property to remove the appointed receiver.

18 (g) Bond or surety.--No receiver shall be appointed until
19 the receiver furnishes a bond or such other surety and provides
20 proof of such liability insurance as the court deems sufficient
21 in the circumstances of the case.

22 Section 6. Powers and duties of receiver.

23 (a) Full powers and duties.--The receiver shall have all the
24 powers and duties accorded a receiver foreclosing a mortgage on
25 real property, including receiving a fee for same, and all other
26 powers and duties deemed necessary by the court for the
27 efficient management of the property and for the improvement of
28 the property in order to bring it into full compliance with all
29 municipal building and housing code requirements. Such powers
30 and duties shall include, but are not necessarily limited to:

- 1 (1) Taking control of the property.
- 2 (2) Collecting rents due on the property.
- 3 (3) Contracting for the repair and maintenance of the
- 4 property, which contracts entered into by the receiver shall
- 5 not be subject to any advertisement or bidding requirements.
- 6 (4) Borrowing money, where necessary, to make
- 7 improvements to the property to bring it into compliance with
- 8 municipal building and housing code requirements.
- 9 (5) Making payments necessary for the maintenance and or
- 10 restoration of utilities to the property.
- 11 (6) Purchasing materials necessary to accomplish
- 12 repairs.
- 13 (7) Renewing existing rental contracts and leases for a
- 14 period not to exceed one year.
- 15 (8) Entering into new rental contracts and leases.
- 16 (9) Affirming, renewing or entering into a new contract
- 17 providing for insurance coverage on the property.
- 18 (10) Granting security interests in the property where
- 19 necessary to fund the improvement of the property.
- 20 (11) Commencing eviction proceedings against tenants
- 21 where necessary and prudent.
- 22 (12) Exercising all other authority that an owner of the
- 23 property would have related to the prudent management and
- 24 improvement of the property.

25 (b) Affirmative duty.--While in possession of the property,
26 the receiver shall have the affirmative duty to:

- 27 (1) Maintain and improve the property in the best
- 28 interests of the current property owner and tenants.
- 29 (2) Apply all revenue generated from the property
- 30 consistent with the provisions of this act.

1 (3) Submit a status report to the court and the
2 municipality every six months. The report shall include:

3 (i) A copy of any contract entered into by the
4 receiver regarding the improvement of the property.

5 (ii) A description of any action taken with regard
6 to any tenant or lease.

7 (iii) An account of the disposition of all revenue
8 generated from the property.

9 (iv) An account of all expenses.

10 (v) A description of any proposed actions to be
11 taken in the next six months to improve the property.

12 (c) Accounting.--Upon the completion of the restoration of
13 the property to municipal building and housing code standards,
14 the receiver shall file with the court a full accounting of all
15 income and expenditures during the period of time it took to
16 restore the property to municipal building and housing code
17 standards:

18 (1) if the income exceeds the expense of rehabilitation,
19 the rehabilitated property shall be restored to the owners
20 along with any net income; or

21 (2) if expenses exceed the income received during the
22 receivership, the receiver shall maintain control of the
23 property until the time all rehabilitation and maintenance
24 expenditures are recovered or until the court transfers title
25 to the property to a new owner.

26 (d) Owner's rights.--During the time the property is in the
27 receiver's possession, the property owner shall have the right
28 to challenge any action taken by the receiver in maintaining and
29 improving the property. The challenge must be made to the court
30 and allege that the challenged action is not in the best

1 interest of either the property owner or the tenants. The court
2 shall rule on the challenge within 30 days of receipt. In
3 considering the challenge, the court shall assume the action of
4 the receiver to be a reasonable exercise of authority, and the
5 burden of rebutting this presumption shall be on the property
6 owner. If the court determines that the challenged action was
7 unreasonable, the receiver shall be enjoined from proceeding
8 with the action and must use revenue generated by the property
9 to correct any damage resulting from the challenged action. The
10 receiver may continue to exercise the full authority granted by
11 this act after the challenge is made and while the challenge is
12 being considered by the court.

13 Section 7. Priority of liens.

14 (a) Lien established.--In order to secure payment of any
15 costs incurred and repayment of any loans for the repair,
16 operation, maintenance or management of the property, the
17 receiver shall have a lien with priority over all other liens or
18 mortgages, including, if approved by the governing body,
19 municipal liens, generally, as well as municipal tax liens, and
20 such lien priority may be assigned to lenders for the purpose of
21 securing loans for the repair, operation, maintenance or
22 management of the property. No such lien shall be effective
23 unless recorded in the recorder of deeds office for the county
24 in which the property is located.

25 (b) Owner obligations.--Nothing in this section shall be
26 deemed to relieve the owner of the property of any civil or
27 criminal liability or any duty imposed by reason of acts or
28 omissions of the owner nor shall the appointment of a receiver
29 suspend any obligation the owner or any other person may have
30 for payment of taxes, any operating or maintenance expense,

1 mortgages or liens or repair of the premises.

2 Section 8. Sale of property.

3 (a) Sale.--The court may order the sale of the property if
4 the court finds that:

5 (1) Notice was given to each record owner of the
6 property and each lienholder of record.

7 (2) The receiver has been in control of the property for
8 more than two years and no legal owner has been identified
9 after a diligent search, or the receiver has been in control
10 of the property for more than three years and an owner has
11 been identified but has failed to repay all rehabilitation
12 and maintenance costs of the receiver.

13 (3) No lienholder of record has intervened in the action
14 and offered to repay the costs of the receiver and assume
15 control of the property.

16 (b) Distribution.--The court shall confirm the sale and
17 order a distribution of the proceeds of the sale in the
18 following order:

19 (1) Court costs.

20 (2) Costs and expenses of the receiver.

21 (3) Valid liens.

22 After the proceeds are distributed, the court shall award fee
23 title to the purchaser subject to any recorded bona fide liens
24 that were not paid by the proceeds of the sale.

25 Section 9. Effective date.

26 This act shall take effect in 90 days.