

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2120 Session of
2014

INTRODUCED BY MASSER, JAMES, MICOZZIE, MILLARD, READSHAW,
SCHLOSSBERG, PICKETT, THOMAS, FLYNN, LUCAS, YOUNGBLOOD,
BIZZARRO, V. BROWN, MULLERY, FARINA, GOODMAN, GINGRICH,
GIBBONS, SNYDER, MCGEEHAN, COX, SAINATO, PAINTER, WATSON,
HEFFLEY, MURT, DeLUCA AND COHEN, MARCH 19, 2014

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 19, 2014

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in neighborhood blight and reclamation
3 and revitalization, further providing for legislative
4 findings and purpose, for definitions, for actions, for asset
5 attachment, for duty of out-of-State owners of property in
6 this Commonwealth, for duty of association and trust owners,
7 for municipal permit denial, for conflict with other law and
8 for relief for inherited property.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 6102, 6103 and 6111 of Title 53 of the
12 Pennsylvania Consolidated Statutes are amended to read:

13 § 6102. Legislative findings and purpose.

14 The General Assembly finds and declares as follows:

15 (1) There are deteriorated properties located in all
16 municipalities of this Commonwealth as a result of neglect by
17 their owners in violation of applicable State and municipal
18 codes.

19 (2) These deteriorated properties create public

1 nuisances which have an impact on crime and the quality of
2 life of our residents and require significant expenditures of
3 public funds in order to abate and correct the nuisances.

4 (3) In order to address these situations, it is
5 appropriate to deny certain governmental permits and
6 approvals in order:

7 (i) To [prohibit] prevent property owners from
8 further extending their financial commitments so as to
9 render themselves unable to abate or correct the code,
10 statutory and regulatory violations or tax delinquencies.

11 (ii) To reduce the likelihood that other
12 municipalities will have to address the owners' neglect
13 and resulting deteriorated properties.

14 (iii) To sanction the owners for not adhering to
15 their legal obligations to the Commonwealth and its
16 municipalities, as well as to tenants, adjoining property
17 owners and neighborhoods.

18 § 6103. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 ["Building." A residential, commercial or industrial
23 building or structure and the land appurtenant to it.

24 "Code." A building, housing, property maintenance, fire,
25 health or other public safety ordinance enacted by a
26 municipality. The term does not include a subdivision and land
27 development ordinance or a zoning ordinance enacted by a
28 municipality.

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

30 "Mortgage lender." A business association defined as a

1 "banking institution" or "mortgage lender" under 7 Pa.C.S. Ch.
2 61 (relating to mortgage loan industry licensing and consumer
3 protection) that is in possession of or holds title to real
4 property pursuant to, in enforcement of or to protect rights
5 arising under a mortgage, mortgage note, deed of trust or other
6 transaction that created a security interest in the real
7 property.]

8 "Municipal code" or "code." A municipally enacted code or
9 ordinance related to the use or maintenance of real property.
10 The term includes any relevant building, housing, fire, health,
11 safety or public nuisance code or ordinance.

12 "Municipality." A city, borough, incorporated town, township
13 or home rule, optional plan or optional charter municipality or
14 municipal authority in this Commonwealth and any entity formed
15 pursuant to Subchapter A of Chapter 23 (relating to
16 intergovernmental cooperation).

17 ["Municipal permits." Privileges relating to real property
18 granted by a municipality, including, but not limited to,
19 building permits, exceptions to zoning ordinances and occupancy
20 permits. The term includes approvals pursuant to land use
21 ordinances other than decisions on the substantive validity of a
22 zoning ordinance or map or the acceptance of a curative
23 amendment.

24 "Owner." A holder of the title to residential, commercial or
25 industrial real estate, other than a mortgage lender, who
26 possesses and controls the real estate. The term includes, but
27 is not limited to, heirs, assigns, beneficiaries and lessees,
28 provided this ownership interest is a matter of public record.

29 "Public nuisance." Property which, because of its physical
30 condition or use, is regarded as a public nuisance at common law

or has been declared by the appropriate official a public nuisance in accordance with a municipal code.

"Serious violation." A violation of a State law or a code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or a passersby.

"State law." A statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

"Substantial step." An affirmative action as determined by a property code official or officer of the court on the part of a property owner or managing agent to remedy a serious violation of a State law or municipal code, including, but not limited to, physical improvements or repairs to the property, which affirmative action is subject to appeal in accordance with applicable law.

"Tax delinquent property." Tax delinquent real property as defined under:

(1) the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law;

(2) the act of May 16, 1923 (P.L.207, No. 153), referred to as the Municipal Claim and Tax Lien Law; or

(3) the act of October 11, 1984 (P.L.876, No.171), known as the Second Class City Treasurer's Sale and Collection Act, located in any municipality in this Commonwealth.]

§ 6111. Actions.

(a) General rule.--A municipal code shall be enforceable through any legal, equitable or criminal proceeding permitted under the laws of this Commonwealth. In addition to any other remedy available at law or in equity, a municipality may

1 institute the following actions [against the owner of any real
2 property that is in serious] for violation of a code or for
3 failure to correct a [condition which causes the property to be
4 regarded as a] public nuisance:

5 [(1) (i) An in personam action may be initiated for a
6 continuing violation for which the owner takes no
7 substantial step to correct within six months following
8 receipt of an order to correct the violation, unless the
9 order is subject to a pending appeal before the
10 administrative agency or court.

11 (ii) Notwithstanding any law limiting the form of
12 action for the recovery of penalties by a municipality
13 for the violation of a code, the municipality may
14 recover, in a single action under this section, an amount
15 equal to any penalties imposed against the owner and any
16 costs of remediation lawfully incurred by or on behalf of
17 the municipality to remedy any code violation.

18 (2) A proceeding in equity.]

19 (3) Civil actions, including actions in assumpsit for
20 the recovery of abatement or correction costs and for the
21 collection of authorized interest and penalties.

22 (4) Imposition of liens against real property for the
23 recovery of abatement or correction costs and for the
24 collection of authorized interest and penalties.

25 (5) Criminal prosecution under 18 Pa.C.S. § 6504
26 (relating to public nuisances).

27 (6) Criminal prosecution under 18 Pa.C.S. § 7510
28 (relating to municipal housing code avoidance).

29 (b) Civil liability.--The following persons and entities
30 shall be considered responsible parties and may be held liable

1 to the same extent as an individual property owner:

2 (1) A corporation, firm or other entity with a legal or
3 equitable interest in or holding record title to real
4 property.

5 (2) A partner or agent of an owner who has control over
6 real property.

7 (3) Any other person or entity having control of real
8 property, including the guardian of the estate of an owner
9 and the administrator of the estate of an owner if ordered to
10 take possession by a court of competent jurisdiction.

11 (c) Criminal liability.--Corporations, unincorporated
12 associations, agents and other persons may be convicted of a
13 property-related criminal offense, in accordance with the
14 provisions of 18 Pa.C.S. § 307 (relating to liability of
15 organizations and certain related persons).

16 Section 2. Section 6112 of Title 53 is repealed:

17 [§ 6112. Asset attachment.

18 (a) General rule.--A lien may be placed against the assets
19 of an owner of real property that is in serious violation of a
20 code or is regarded as a public nuisance after a judgment,
21 decree or order is entered by a court of competent jurisdiction
22 against the owner of the property for an adjudication under
23 section 6111 (relating to actions).

24 (b) Construction.--Nothing in this section shall be
25 construed to authorize, in the case of an owner that is an
26 association or trust, a lien on the individual assets of the
27 general partner or trustee, except as otherwise allowed by law,
28 limited partner, shareholder, member or beneficiary of the
29 association or trust.]

30 Section 3. Section 6113 of Title 53 is amended to read:

1 [§ 6113. Duty of out-of-State owners of property in this
2 Commonwealth.

3 A person who lives or has a principal place of residence
4 outside this Commonwealth, who owns property in this
5 Commonwealth against which code violations have been cited and
6 the person is charged under 18 Pa.C.S. (relating to crimes and
7 offenses), and who has been properly notified of the violations
8 may be extradited to this Commonwealth to face criminal
9 prosecution to the full extent allowed and in the manner
10 authorized by 42 Pa.C.S. Ch. 91 (relating to detainers and
11 extradition).]

12 § 6113. Out-of-State owners of property in this Commonwealth.

13 Liability may be imposed against any property owner or other
14 responsible party domiciled outside this Commonwealth to the
15 extent permitted by the Constitution of the United States, in
16 accordance with 42 Pa.C.S. § 5322 (relating to bases of personal
17 jurisdiction over persons outside this Commonwealth). Anyone
18 charged with a criminal violation may be extradited to this
19 Commonwealth to face prosecution to the extent and in the manner
20 provided by 42 Pa.C.S. Ch. 91 (relating to detainers and
21 extradition).

22 Section 4. Section 6114 of Title 53 is repealed:

23 [§ 6114. Duty of association and trust owners.

24 Where, after reasonable efforts, service of process for a
25 notice or citation for any code violation for any real property
26 owned by an association or trust cannot be accomplished by
27 handing a copy of the notice or citation to an executive
28 officer, partner or trustee of the association or trust or to
29 the manager, trustee or clerk in charge of the property, the
30 delivery of the notice or citation may occur by registered,

1 certified or United States Express mail, accompanied by a
2 delivery confirmation:

3 (1) To the registered office of the association or
4 trust.

5 (2) Where the association or trust does not have a
6 registered office, to the mailing address used for real
7 estate tax collection purposes, if accompanied by the posting
8 of a conspicuous notice to the property and by handing a copy
9 of the notice or citation to the person in charge of the
10 property at that time.]

11 Section 5. Section 6131 of Title 53 is amended to read:

12 § 6131. Municipal permit denial.

13 (a) Denial.--

14 (1) A municipality [or a board under subsection (c)] may
15 deny [issuing to an applicant a municipal permit if the
16 applicant owns real property in any municipality for which
17 there exists on the real property:

18 (i) a final and unappealable tax, water, sewer or
19 refuse collection delinquency on account of the actions
20 of the owner; or

21 (ii) a serious violation of State law or a code and
22 the owner has taken no substantial steps to correct the
23 violation within six months following notification of the
24 violation and for which fines or other penalties or a
25 judgment to abate or correct were imposed by a
26 magisterial district judge or municipal court, or a
27 judgment at law or in equity was imposed by a court of
28 common pleas. However, no denial shall be permitted on
29 the basis of a property for which the judgment, order or
30 decree is subject to a stay or supersedeas by an order of

1 a court of competent jurisdiction or automatically
2 allowed by statute or rule of court until the stay or
3 supersedeas is lifted by the court or a higher court or
4 the stay or supersedeas expires as otherwise provided by
5 law. Where a stay or supersedeas is in effect, the
6 property owner shall so advise the municipality seeking
7 to deny a municipal permit.] the permit application of a
8 property owner or agent thereof if, in any municipality
9 or jurisdiction in this Commonwealth, the applicant:

10 (iii) owns property against which there is a tax or
11 municipal lien;

12 (iv) has failed to correct a code violation six
13 months after the date of the initial citation; or

14 (v) is subject to an outstanding warrant or
15 unsatisfied judgment resulting from one or more municipal
16 code violations.

17 (2) A municipality or board shall not deny a municipal
18 permit to an applicant if the municipal permit is necessary
19 to correct a violation of State law or a code.

20 (3) The municipal permit denial shall not apply to an
21 applicant's delinquency on taxes, water, sewer or refuse
22 collection charges that are under appeal or otherwise
23 contested through a court or administrative process.

24 (4) In issuing a denial of a permit [based on an
25 applicant's delinquency in real property taxes or municipal
26 charges or for failure to abate a serious violation of State
27 law or a code on real property that the applicant owns in
28 this Commonwealth] under this section, the municipality [or
29 board] shall indicate, with sufficient particularity, the
30 basis for the denial, including the street address[,

1 municipal corporation and county in which the property is
2 located and the court and docket number for each parcel cited
3 as a basis for the denial. The denial shall also state that
4 the applicant may request a letter of compliance from the
5 appropriate State agency, municipality or school district, in
6 a form specified by such entity as provided in this section.]
7 of any implicated property, the violation and, if applicable,
8 a copy of the outstanding warrant or docket number associated
9 with any unsatisfied judgment.

10 (b) Proof of compliance.--

11 [(1) All municipal permits denied in accordance with
12 this subsection may be withheld until an applicant obtains a
13 letter from the appropriate State agency, municipality or
14 school district indicating the following:

15 (i) the property in question has no final and
16 unappealable tax, water, sewer or refuse delinquencies;

17 (ii) the property in question is now in State law
18 and code compliance; or

19 (iii) the owner of the property has presented and
20 the appropriate State agency or municipality has accepted
21 a plan to begin remediation of a serious violation of
22 State law or a code. Acceptance of the plan may be
23 contingent on:

24 (A) Beginning the remediation plan within no
25 fewer than 30 days following acceptance of the plan
26 or sooner, if mutually agreeable to both the property
27 owner and the municipality.

28 (B) Completing the remediation plan within no
29 fewer than 90 days following commencement of the plan
30 or sooner, if mutually agreeable to both the property

owner and the municipality.

(2) In the event that the appropriate State agency, municipality or school district fails to issue a letter indicating tax, water, sewer, refuse, State law or code compliance or noncompliance, as the case may be, within 45 days of the request, the property in question shall be deemed to be in compliance for the purpose of this section. The appropriate State agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made.

(3) Letters required under this section shall be verified by the appropriate municipal officials before issuing to the applicant a municipal permit.

(4) (i) Municipal permits may be denied by a board in accordance with the requirements of this section to the extent that approval of the municipal permit is within the jurisdiction of the board. For purposes of this section, "board" shall mean a zoning hearing board or other body granted jurisdiction to render decisions in accordance with the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or a similar board in municipalities not subject to that act.

(ii) In any proceeding before a board other than the governing body of the municipality, the municipality may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.

(iii) For purposes of this subsection, a municipal permit may only be denied to an applicant other than an owner if:

1 (A) the applicant is acting under the direction
2 or with the permission of an owner; and

3 (B) the owner owns real property satisfying the
4 conditions of subsection (a).

5 (c) Applicability of other law.--A denial of a permit shall
6 be subject to the provisions of 2 Pa.C.S. Chs. 5 Subch. B
7 (relating to practice and procedure of local agencies) and 7
8 Subch. B (relating to judicial review of local agency action) or
9 the Pennsylvania Municipalities Planning Code, for denials
10 subject to the act.]

11 Approval may be withheld until the applicant provides
12 sufficient proof that:

13 (1) the basis for the denial has been corrected or
14 otherwise remedied; or

15 (2) the applicant or property owner has entered into a
16 remediation or payment plan with the municipality or
17 appropriate agency.

18 Section 6. Section 6143 of Title 53 is repealed:

19 [§ 6143. Conflict with other law.

20 In the event of a conflict between the requirements of this
21 chapter and Federal requirements applicable to demolition,
22 disposition or redevelopment of buildings, structures or land
23 owned by or held in trust for the Government of the United
24 States and regulated pursuant to the United States Housing Act
25 of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) and the
26 regulations promulgated thereunder, the Federal requirements
27 shall prevail.]

28 Section 7. Section 6144 of Title 53 is amended to read:

29 § 6144. Relief for inherited or foreclosed property.

30 [Where property is inherited] Notwithstanding any other

provision of this chapter, where property is transferred by will
or intestacy[, the devisee or heir shall be given the
opportunity to make payments on reasonable terms to correct code
violations or to enter into a remediation agreement under
section 6131(b)(1)(iii) (relating to municipal permit denial)
with a municipality to avoid subjecting the devisee's or heir's
other properties to asset attachment or denial of permits and
approvals on other properties owned by the devisee or heir.] or
as the result of a foreclosure, the owner or, if applicable,
person in possession of the property shall be afforded a
reasonable opportunity to correct any code violations or
delinquencies.

Section 8. This act shall take effect in 60 days.