



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 653

PRINTERS NO. 692

PRIME SPONSOR: Masser

COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
Political Subdivision Funds	\$0	\$0

SUMMARY: Provides for a foreclosure process for vacant and abandoned properties to assist with blight remediation. The addition of Chapter 23 would take effect in 60 days with the remainder of the legislation taking effect immediately.

ANALYSIS: This legislation amends Title 68 (Real and Personal Property) to add a new Chapter 23 titled "Real Estate Foreclosure".

Subchapter A: Vacant and Abandoned Property: Subchapter A establishes the Vacant and Abandoned Real Estate Foreclosure Act.

Certification of Vacant and Abandoned Mortgaged Property: After a creditor gives notice to an obligor of a delinquent or other defaulted obligation, a mortgaged property for which the notice is given or proceedings are initiated will be considered as vacant and abandoned if:

- a creditor or purchaser has been designated as a conservator of the mortgaged property under the provisions of the Abandoned and Blighted Property Conservatorship Act;
- the mortgaged property is certified vacant and abandoned by the municipality in which it is located; or
- the mortgaged property is certified vacant and abandoned as a result of judicial certification.

Requirements to Certify Mortgaged Property as Vacant and Abandoned: A mortgaged property may be certified as vacant and abandoned by a municipal code enforcement officer or a judicial proceeding if the mortgaged property is vacant and satisfies at least two indicia of abandonment that are delineated within the legislation. Competent evidence may be relied on to determine that a mortgaged property is vacant, including evidence that:

- The mortgaged property was found to be vacant at the time of two inspections occurring at least 45 days apart.
- A notice was posted on the property following the first inspection advising the occupant of the mortgaged property to immediately contact the inspector and stating that failing to do so may have adverse legal consequences.
- No response was received to the notice posted after the first inspection from a person legally entitled to occupy the mortgaged property prior to the second inspection.

Effect of Certification of Vacant and Abandonment:

- Foreclosure Action - a mortgaged property certified as vacant and abandoned will not be subject to mediation, conciliation, diversion, or any other program established by a local court to encourage a resolution of an owner-occupied residential mortgage foreclosure.
- Service and Notification - following a certification that a mortgaged property is vacant and abandoned, any subsequent documents required to be served on and any notices will be sent to the specified address of the owner/obligor. If no address exists, documents will be sent to the address of the mortgaged property and by posting the notice in a conspicuous location on the mortgaged property.
- Scheduling a Sheriff's Sale -
 - If the property is certified vacant and abandoned, the sheriff, on receipt of an accelerated sale fee of \$500, shall schedule a sale of the property to be conducted within 60 days following the filing of the writ of execution. The sheriff's deed must be recorded within 30 days following the sale.
 - The accelerated sale fee is payable at the time of the filing of the writ of execution and shall be immediately refunded if:
 - The time frames are not complied with.
 - The expedited sale date is postponed or continued by a party other than the creditor.
- Scheduling of Execution of Writ of Possession -
 - The sheriff on the receipt of an additional fee of \$250 shall execute and serve a writ of possession within 20 days following the delivery of the writ to the sheriff.
 - The sheriff must schedule the removal of a former owner's personal property and secure that property within 30 days following the filing of the writ.
 - The additional fee shall be immediately refunded if:
 - The time frames are not complied with.
 - The expedited execution is postponed or continued by a party other than the purchaser.
- Possession of Mortgaged Property Pending Foreclosure -
 - The creditor may enter the mortgaged property peacefully to inspect, maintain, and repair the mortgaged property and won't be liable to the owner for trespass or for damage to the property resulting from a cause other than the creditor's gross negligence or willful misconduct.
- Property Maintenance -
 - Obligations of a creditor with the right to possession pending foreclosure are limited to compliance with property maintenance requirements under the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.
 - The mortgaged property maintenance obligations of a creditor that exercises a right to possession shall be limited to:
 - Care for the yard and exterior of the building.
 - Measures to prevent trespassers from remaining on the property.
 - Preventing infestations by vermin and insects.
 - Taking any action necessary to prevent conditions that would cause serious and imminent hazard to public health or safety.

Post-Sheriff's Sale's Actions: The personal property owner is responsible for removing all personal property from the mortgaged property. The former owner is deemed to relinquish possession when he/she:

- Vacates the premises.
- Removes substantially all personal property.
- Provides notice to the creditor that he/she has vacated the property.

If the former owner does not remove such property from the premises, the purchaser may remove the property by serving a notice of intent to remove the personal property to the former owner, the purchaser must post a personal property removal notice (including the date, property address, the date of the sheriff's sale when the property was purchased, and a statement that the former owner has 10 days to retrieve the personal property where thereafter it may be disposed at the purchaser's discretion).

Subchapter B: Sheriff's Commission and Creditor Attorney Fees: Subchapter B provides for the commission payable to the sheriff and a creditor's attorney fees.

Sheriff's Commission and Creditor Attorney Fees: Commission payable to the Sheriff will not be due unless the property is sold at the Sheriff's execution sale. If the execution sale is cancelled, withdrawn, or postponed, the Sheriff is not entitled to the standard commission.

Limitations on Creditor's Attorney Fees: Creditors with reasonable attorney fees that are the result of a delinquency or default regarding a mortgaged property may include those fees in the mortgage obligations to be paid by the obligor. A party to the action may review the reasonableness of the attorney fees claimed. No attorney fees may be charged for legal expenses incurred for a residential mortgage prior to or during the 30-day notice period provided under Section 406 of the Loan Interest and Protection Law.

FISCAL IMPACT: This legislation would have no adverse fiscal impact on Commonwealth or political subdivision funds.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: May 8, 2017

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.