

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 1363

PRINTER'S NO. 4241

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

May 9, 2013

PRIME SPONSOR

Representative Taylor

DESCRIPTION AND PURPOSE OF BILL

House Bill 1363, as amended, amends the Abandoned and Blighted Property Conservatorship Act (Act 135 of 2008) to encourage investment in efforts to remediate blight and to clarify conservatorship provisions in the existing act.

Conservatorship is the appointment of a third party to take control of a blighted and abandoned property and to make the repairs necessary to return the property to productive use. A court of common pleas appoints the conservator after a formal petition process and hearing, including notice to the property owner, all lien holders and all political subdivisions where the property is located. As a result, formerly abandoned and/or blighted properties have new owners and are placed back on local tax rolls.

The legislation defines "abandoned property" as a building that has not been legally occupied for the previous 12 month period. In addition, House Bill 1363 expands the existing definition of "building" to include a vacant lot on which a building has been demolished. The term "costs of rehabilitation" is amended by removing the requirement that the costs be "...consistent with the standards for developers' fees established by the Pennsylvania Housing Finance Agency." The legislation, as amended, adds the term "conservator's or developer's fee", which is defined as a fee equal to the greatest of the following:

1. An amount equal to \$2,500, adjusted upward by 2% each year;
2. A 20% markup of the costs and expenses for construction, stabilization, rehabilitation, maintenance and operation or demolition as described in the proposed conservator's plan and any subsequent plan approved by the court;
or
3. Twenty percent of the sale price of the property.

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House Bill 1363 adds "remediation of blight" as a purpose in the definition of "nonprofit corporation". The term "party in interest" is amended such that a resident or business owner within 2,000 feet of a building, as opposed to 500 feet, is considered a party in interest. Furthermore, a nonprofit corporation undertaking a conservatorship action in the City of Philadelphia is a "party in interest" if it has participated in a project within a five-mile radius of the location of the building, as opposed to the existing one-mile distance.

The legislation requires that a petition submitted to a court requesting the appointment of a conservator must include a schedule of mortgages, liens and other encumbrances on the property. The petitioner must notify all municipal authorities known to have provided service to the property upon the filing of a petition requesting the appointment of a conservator.

House Bill 1363 allows the petitioner to include one or more adjacent properties in a single action when the properties are owned by the same owner and the properties were used for a single purpose or interrelated functions. The time period for court action on a petition is decreased from 120 days of receipt of a petition to 60 days.

The conditions under which a court may appoint a conservator are expanded to include the following:

1. If the owner fails to present compelling evidence that he has actively marketed the property during the preceding 60-day period and made a good faith effort to sell the property at a price reflecting market conditions; or
2. If the property is not subject to a pending foreclosure action by an individual or nongovernmental entity.

House Bill 1363 requires a court to certify the schedule of encumbrances at the time of the appointment of a conservator. The certification shall be binding with respect to all mortgages, liens and encumbrances, including municipal liens, arising or attaching to the property prior to the date of petition. The court has the option to allow the owner to proceed with abatement of negligible conditions within a reasonable period of time.

The legislation changes the existing "may" provision to a requirement that the owner must post a bond for the amount of the repair costs estimated in the petition as a condition for retaining possession of the building.

If there is a finding that a petition states conditions for a conservatorship or the owner elects to either remedy all violations or sell the property, then the owner shall reimburse the petitioner for all costs incurred by the petitioner in preparing and filing the petition.

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House Bill 1363 adds the costs of rehabilitation, attorney fees and court costs to the allowable costs that the conservator may file as a lien against the property. With regard to the powers and duties of a conservator in contracting for repair and maintenance of a building, the legislation provides an exception to the requirement on bids in cases where the contractor or developer provides or obtains financing for the conservatorship.

The legislation clarifies that proceeds from the sale, after court costs, shall be applied to Commonwealth liens, liens for unpaid property taxes, and properly recorded municipal liens. In addition, the costs incurred by the petitioner in preparing and filing the petition are added to the priority ranking for distribution of sales proceeds.

The act shall take effect in 60 days.

FISCAL IMPACT:

House Bill 1363 would have no adverse fiscal impact on Commonwealth or local funds.