

AN ACT

1 Amending the act of November 26, 2008 (P.L.1672, No.135),
2 entitled "An act providing for court-appointed conservators
3 to bring residential, commercial and industrial buildings
4 into municipal code compliance when owners fail to comply,"
5 further providing for definitions, for initiation of action,
6 for appointment of conservator, for powers and duties of
7 conservator and for sale of property.

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

10 Section 1. The definitions of "building," "costs of
11 rehabilitation," "nonprofit corporation," and "party in
12 interest" in section 3 of the act of November 26, 2008 (P.L.
13 1672, No. 135), known as the Abandoned and Blighted Property
14 Conservatorship Act, are amended and the section is amended by
15 adding definitions to read:

16 Section 3. Definitions.

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

20 "Abandoned property." Any property that meets the

1 requirements of conditions of conservatorship as provided in
2 section 5(d).

3 * * *

4 "Building." A residential, commercial or industrial building
5 or structure and the land appurtenant thereto, including a
6 vacant lot on which a building has been demolished.

7 * * *

8 "Costs of rehabilitation." Costs and expenses for
9 construction, stabilization, rehabilitation, maintenance and
10 operation or demolition, including reasonable nonconstruction
11 costs associated with the project, including, but not limited
12 to, environmental remediation, architectural, engineering and
13 legal fees and costs, permits, financing fees and a developer's
14 fee [consistent with the standards for developers' fees
15 established by the Pennsylvania Housing Finance Agency].

16 * * *

17 "Developer's fee." A fee equal to the greatest of the
18 following:

19 (1) an amount equal to \$2,500, adjusted upward by 2%
20 each year;

21 (2) a 20% markup of the costs and expenses for
22 construction, stabilization, rehabilitation, maintenance and
23 operation or demolition as described in the proposed
24 conservator's plan and any subsequent plan approved by the
25 court; or

26 (3) twenty percent of the sale price of the property.

27 * * *

28 "Nonprofit corporation." A nonprofit corporation that has,
29 as one of its purposes remediation of blight, community
30 development activities, including economic development, historic

1 preservation or the promotion or enhancement of affordable
2 housing opportunities.

3 * * *

4 "Party in interest." A person or entity who has a direct and
5 immediate interest in a residential, commercial or industrial
6 building, including:

7 (1) The owner.

8 (2) A lienholder and other secured creditor of the
9 owner.

10 (3) A resident or business owner within [500] 2,000 feet
11 of the building.

12 (4) A nonprofit corporation, including a redevelopment
13 authority, which:

14 (i) except as set forth in subparagraph (ii), is
15 located in the municipality where the building is
16 located; and

17 (ii) for a building located in a city of the first
18 class, is located in the city and has participated in a
19 project within a [one-mile] five-mile radius of the
20 location of the building.

21 (5) A municipality or school district in which the
22 building is located.

23 * * *

24 Section 2. Section 4 of the act is amended by adding a
25 subsection to read:

26 Section 4. Initiation of action.

27 * * *

28 (e) Adjacent properties.--The petition may include one or
29 more adjacent properties in a single action if:

30 (1) the property that is the primary subject of the

1 action is owned by the same owner as the adjacent property;
2 and

3 (2) the properties are or were used for a single or
4 interrelated function.

5 Section 3. Section 5(a), (d), (e), (f) and (g) of the act
6 are amended to read:

7 Section 5. Appointment of conservator.

8 (a) General rule.--The court shall act upon a petition
9 submitted by holding a hearing within [120] 60 days of receipt
10 of the petition and by rendering a decision no later than 30
11 days after completion of the hearing.

12 * * *

13 (d) Conditions for conservatorship.--If a petition is filed
14 under section 4, the court may appoint a conservator if all of
15 the following apply as of the date of filing:

16 (1) The building has not been legally occupied for at
17 least the previous 12 months.

18 (2) The building has not been actively marketed during
19 the 60 days prior to the date of the petition[.] or has been
20 actively marketed for more than six months without a
21 competitive, market-driven price reduction. If the property
22 is actively marketed, the owner of the building shall provide
23 the court with a copy of the active real estate listing as
24 well as a notarized affidavit containing dates the property
25 was shown and details about any offers placed by potential
26 buyers. The court shall consider whether the listing is a
27 credible attempt to sell the property to a responsible owner
28 or an attempt to thwart the proposed conservatorship.

29 (3) The building is not subject to an existing
30 foreclosure action. For the purposes of this paragraph,

1 foreclosure does not include properties subject to civil
2 action by a governmental entity for taxes or liens, and any
3 enforcement action may be stayed at the discretion of the
4 court.

5 (4) The current owner fails to present sufficient
6 evidence that he has acquired the property within the
7 preceding six months. The evidence shall not include
8 instances where the prior owner is a member of the immediate
9 family of the current owner, unless the transfer of title
10 results from the death of the prior owner, or where the
11 current or prior owner is a corporation, partnership or other
12 entity in which either owner or the immediate family of
13 either owner has an interest in excess of 5%.

14 (5) The court finds at least three of the following:

15 (i) The building or physical structure is a public
16 nuisance.

17 (ii) The building is in need of substantial
18 rehabilitation and no rehabilitation has taken place
19 during the previous 12 months.

20 (iii) The building is unfit for human habitation,
21 occupancy or, if the property is zoned commercial, use.

22 (iv) The condition and vacancy of the building
23 materially increase the risk of fire to the building and
24 to adjacent properties.

25 (v) The building is subject to unauthorized entry
26 leading to potential health and safety hazards and one of
27 the following applies:

28 (A) The owner has failed to take reasonable and
29 necessary measures to secure the building.

30 (B) The municipality has secured the building in

1 order to prevent such hazards after the owner has
2 failed to do so.

3 (vi) The property is an attractive nuisance to
4 children, including, but not limited to, the presence of
5 abandoned wells, shafts, basements, excavations and
6 unsafe structures.

7 (vii) The presence of vermin or the accumulation of
8 debris, uncut vegetation or physical deterioration of the
9 structure or grounds has created potential health and
10 safety hazards and the owner has failed to take
11 reasonable and necessary measures to remove the hazards.

12 (viii) The dilapidated appearance or other condition
13 of the building negatively affects the economic well-
14 being of residents and businesses in close proximity to
15 the building, including decreases in property value and
16 loss of business, and the owner has failed to take
17 reasonable and necessary measures to remedy appearance or
18 the condition.

19 (ix) The property is an attractive nuisance for
20 illicit purposes, including prostitution, drug use and
21 vagrancy.

22 (e) Appointment.--

23 (1) If the court determines after a hearing that the
24 property has met the conditions of subsection (d), the court
25 may appoint a conservator and grant such other relief as may
26 be just and appropriate.

27 (2) The court shall give first consideration for
28 appointment as conservator to the senior lienholder on the
29 property.

30 (3) In the event the senior lienholder is found to be

1 not competent or declines the appointment, the court may
2 appoint a nonprofit corporation or other competent entity. If
3 the property is located in a city of the first class, the
4 nonprofit corporation or entity must be located in the city
5 and must have participated in a project within a [one-mile]
6 five-mile radius of the location of the property. In
7 appointing a conservator, the court shall:

8 (i) consider any recommendations contained in the
9 petition or otherwise presented by a party in interest;
10 and

11 (ii) give preference to the appointment of a
12 nonprofit corporation or governmental unit over an
13 individual.

14 (f) Conditional relief.--

15 (1) If the court finds after a hearing that the
16 conditions for conservatorship set forth in subsection (d)
17 have been established, but the owner represents that the
18 conditions, violations or nuisance or emergency condition
19 will be abated in a reasonable period, the court may allow
20 the owner to proceed to remedy the conditions.

21 (2) If the conditions set forth in paragraph (1) have
22 been satisfied, the court shall enter an order providing
23 that, in the event that the violations or nuisance or
24 emergency conditions are not abated by the owner by a
25 specific date or that other specified remedial activities
26 have not occurred by a specific date or dates, an order
27 granting the relief requested in the petition shall be
28 entered.

29 (3) The court [may] shall also require the owner to post
30 a bond in the amount of the repair costs estimated in the

1 petition as a condition to retaining possession of the
2 building.

3 (4) After a petition is filed, if the court proceeds
4 pursuant to paragraph (1) or subsection (e)(2), or the owner
5 contracts to sell the property, the costs of conservatorship
6 shall be paid to the petitioner or conservator upon a prima
7 facie finding that the conditions for conservatorship are
8 satisfied.

9 (g) Conservator's lien.--The conservator may file a lien
10 against the property in an amount based on the costs incurred
11 during the conservatorship, including, but not limited to, costs
12 of rehabilitation, attorney fees and court costs. The lien
13 amount may be adjusted from time to time.

14 * * *

15 Section 4. Section 6(a)(4) and (14) and (b)(4) of the act
16 are amended and the section is amended by adding a subsection to
17 read:

18 Section 6. Powers and duties of conservator.

19 (a) Full powers and duties.--The conservator shall have all
20 powers and duties necessary or desirable, from time to time, for
21 the efficient operation, management and improvement of the
22 building in order to bring it into compliance with all municipal
23 building and housing code requirements and to fulfill the
24 conservator's responsibilities under this act. Such powers and
25 duties shall include, but not be limited to, the power to:

26 * * *

27 (4) Contract for the repair and maintenance of the
28 building. The contracts shall be appropriately documented and
29 included in the reports and accounting which the conservator
30 is required to submit or file under the provisions of this

1 act. The conservator shall make a reasonable effort to
2 solicit three bids for contracts valued at more than \$25,000,
3 except when the contractor or developer provides or obtains
4 financing for the conservatorship.

5 * * *

6 (14) Exercise all authority that an owner of the
7 building would have to improve, maintain and otherwise manage
8 the building, including the extent to which rehabilitation
9 will satisfy the goals of the conservatorship.

10 (a.1) Reasonable regard from court.--The court shall
11 give reasonable regard to the conservator in its
12 determination as to the scope of rehabilitation necessary to
13 recoup the costs of conservatorship, rehabilitation and
14 proposed purchase by a developer.

15 (b) Affirmative duty.--While in possession of the building,
16 the conservator shall:

17 * * *

18 (4) Implement the final plan referred to in paragraph
19 (3) upon approval by the court. The court may approve the
20 final plan at the hearing described in section 5(c).

21 * * *

22 Section 5. Section 9(b)(2) and (d) of the act are amended to
23 read:

24 Section 9. Sale of property.

25 * * *

26 (b) Sale by conservator.--Upon application of the
27 conservator, the court may order the sale of the property if the
28 court finds that:

29 * * *

30 (2) The conservator has been in control of the building

1 for more than [six] three months and the owner has not
2 successfully petitioned to terminate the conservatorship
3 under section 10.

4 * * *

5 (d) Distribution.--The proceeds of the sale shall be applied
6 in accordance with the following priorities to:

7 (1) All court costs.

8 (2) [Municipal] The principal on all State and municipal
9 or other governmental liens then existing and recorded in the
10 judgment and lien index prior to filing of the petition for
11 conservatorship.

12 (3) Costs and expenses of sale.

13 (4) Principal and interest on any borrowing or
14 incurrence of indebtedness granted priority over existing
15 liens and security interest under section 8(b).

16 (4.1) Costs incurred by the petitioner in requesting the
17 court to place the property in conservatorship.

18 (5) Costs of rehabilitation and any fees and expenses
19 incurred by the conservator in connection with the sale or
20 the safeguarding of the property for which the lien
21 authorized under section (5)(g) was filed.

22 (6) Valid liens and security interests in accordance
23 with their priority.

24 (7) Any unpaid obligations of the conservator.

25 (8) Costs incurred by the petitioner in requesting the
26 court to place the property in conservatorship.

27 (9) The owner.

28 * * *

29 Section 6. This act shall take effect in 60 days.