

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 843 Session of
2007

INTRODUCED BY WALKO, COHEN, DERMODY, FRANKEL, ARGALL,
BENNINGTON, BIANCUCCI, BISHOP, CALTAGIRONE, CARROLL, COSTA,
CURRY, DALEY, DeLUCA, FABRIZIO, FREEMAN, GEIST, GEORGE,
GERGELY, GIBBONS, GOODMAN, GRUCELA, HARHAI, HARPER,
HENNESSEY, JAMES, KOTIK, MELIO, MYERS, M. O'BRIEN, PETRONE,
PRESTON, READSHAW, SABATINA, SCAVELLO, SIPTROTH, STABACK,
STURLA, J. TAYLOR, WANSACZ AND YOUNGBLOOD, MARCH 21, 2007

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 21, 2007

AN ACT

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

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 adversely
12 affected by blighted residential property, those residing in
13 dwelling units located in buildings that fail to meet
14 municipal building and housing codes for public safety and
15 sanitation and those who live in proximity to such occupied
16 substandard buildings as well as vacant residential

1 buildings.

2 (2) Substandard housing units are unsafe. In addition,
3 tenants often pay rents disproportionate to the value of the
4 housing accommodations and services received. Substandard,
5 deteriorating residential structures whether occupied or
6 vacant are a public safety threat and nuisance, and their
7 blighting effect diminishes property values in the
8 neighborhoods in which these properties are located.

9 (3) If these buildings are not rehabilitated and brought
10 into code compliance, they are likely to be abandoned,
11 resulting in increased costs to the Commonwealth,
12 municipality and taxpayers to secure and ultimately demolish
13 these buildings.

14 (4) If it becomes necessary to ultimately abandon a
15 building, existing tenants will be displaced, disrupting
16 lives and adding to the affordable housing problems of the
17 municipality and the Commonwealth. Many displaced tenants may
18 become homeless.

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

1 the building from the housing supply.

2 Section 3. Definitions.

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

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

8 "Competent entity." Any person or entity with experience in
9 the operation and maintenance of residential buildings.

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

11 "Municipality." Any city of the first, second, second class
12 A or third class, any incorporated town, any township of the
13 first or second class and any borough.

14 "Nonprofit corporation." Any nonprofit corporation organized
15 for the purpose of initiating community development activities,
16 including housing.

17 "Owner." The holder or holders of title to a residential
18 building.

19 "Parties in interest." Parties in interest shall be those
20 persons or entities who have a direct and immediate interest in
21 a residential building, including:

22 (1) The owner.

23 (2) Any individuals, associations and corporations who
24 have interests of record in the residential building or who
25 are in actual possession thereof or who collect or receive
26 rents payable for housing accommodations therein.

27 (3) Any tenants living in the building pursuant to a
28 lease.

29 (4) Any mortgage lienholders and other secured creditors
30 of the owner.

1 (5) A nonprofit corporation carrying out community
2 development activities within the municipality where the
3 residential building is located.

4 (6) A municipality in which the residential building is
5 located.

6 "Party." The owner, all petitioners and any party in
7 interest that has intervened in the receivership proceeding.

8 "Public nuisance." A condition at or with respect to a
9 residential building that is dangerous to the health, safety or
10 welfare of the residents of the neighborhood in which the
11 residential building is located; or which unlawfully obstructs
12 or unreasonably interferes with the public rights; or which has
13 been declared to be a public nuisance under applicable local
14 ordinance.

15 "Residential building." Any building or structure and the
16 land appurtenant thereto containing one or more dwelling units.
17 Section 4. Petition for receiver.

18 (a) Petitioner.--A petition for the appointment of a
19 receiver to take possession and to assume the operation,
20 improvement and maintenance of a residential building may be
21 filed by a party in interest.

22 (b) Grounds.--If a petition is filed under subsection (a),
23 the court may grant appropriate relief if:

24 (1) (i) the building is currently in violation of any
25 municipal building or housing code requirements and the
26 violation or violations have persisted, unabated, for at
27 least 90 days;

28 (ii) the building has been declared a public
29 nuisance by the municipality; or

30 (iii) the safety, health or welfare of the tenants

1 or adjoining property owners is in immediate jeopardy.

2 (2) The code violations or nuisance or unsafe conditions
3 are not likely to be abated in accordance with law unless a
4 receiver is appointed by the court.

5 (3) The appointment of a receiver is in the best
6 interest of the public.

7 (c) Contents.--The petition submitted to the court shall
8 include a concise statement of the grounds for relief and, to
9 the extent available, to the petitioner:

10 (1) A copy of any citation or citations charging the
11 owner with being in violation of municipal building code
12 requirements or declaring the residential building to be a
13 public nuisance.

14 (2) A recommendation of the receiver to be appointed.

15 (3) The proposed receiver's preliminary plan with
16 initial cost estimates for improvement of the residential
17 building and compliance with all municipal codes.

18 (d) Verification.--The petition shall be verified by a
19 petitioner.

20 (e) Notification of owner.--The petitioner shall notify the
21 current owner of the property by registered or certified mail to
22 the last known address of the owner immediately upon filing the
23 petition with the court and publish a notice in a newspaper of
24 general circulation within one week of filing the petition. With
25 regard to occupied properties, unless tenants have been provided
26 with written notice to the contrary, the most recent address to
27 which tenants were directed to send or deliver rent shall be
28 considered an adequate address for this notice.

29 (f) Mortgagees and lienholders.--Upon scheduling of a
30 hearing on the petition, the petitioner shall mail all

1 mortgagees and lienholders of record, as of the day that the
2 petition was filed, a copy of the petition, together with notice
3 of the hearing. Within seven days after the scheduling of this
4 hearing, the petitioner shall file with the court a certificate
5 of service verifying compliance with this requirement.

6 Section 5. Appointment of receiver.

7 (a) Court action.--The court shall act upon any petition
8 submitted by holding a hearing within 30 days of receipt of the
9 petition and rendering a decision no later than 30 days after
10 completion of the hearing.

11 (b) Intervention.--Subject to the court's discretion, any
12 party in interest may intervene in the proceeding and be heard
13 with respect to the petition, the requested relief or any other
14 matter which may come before the court in connection with the
15 proceedings.

16 (c) Hearing.--At the hearing, any party in interest will be
17 permitted to present evidence to support or contest the
18 petition.

19 (d) Appointment.--If the court determines after hearing that
20 the grounds for relief set forth in section 4(b)(1) through (3)
21 have been established, the court may appoint a receiver and
22 grant such other relief as may be just and appropriate. If the
23 court appoints a receiver, the court may appoint a nonprofit
24 corporation or other competent entity. In appointing a receiver,
25 the court shall consider any recommendations contained in the
26 petition or otherwise presented by a party in interest.

27 (e) Conditional relief.--If the court finds after hearing
28 that the grounds for relief set forth in section 4(b)(1) through
29 (3) have been established, but the owner represents that the
30 violations or nuisance or emergency condition will be abated in

1 a reasonable period, the court may, but shall not be obligated
2 to, enter an order providing that in the event that the
3 violations or nuisance or emergency condition is not abated by a
4 specific date or that other specified remedial activities have
5 not occurred by a specific date or dates, then an order granting
6 the relief set forth in the petition will be entered. The court
7 may also require the owner to post a bond in the amount of the
8 repair costs estimated in the petition, as a condition to
9 retaining possession of the residential building.

10 (f) Hearing on receiver's plan for abatement.--Within 30 to
11 60 days, the court shall set a date for hearing on the
12 receiver's plan for abatement.

13 (g) Bond or surety.--Upon appointment, the receiver shall
14 furnish the court a bond or such other surety or insurance as
15 the court deems sufficient in the circumstances of the case.

16 (h) Immediate possession.--The receiver shall take
17 possession of the residential building and other property
18 subject to the receivership promptly after posting of the
19 required bond or surety and shall immediately be authorized to
20 exercise all powers delegated by this act.

21 (i) Removal by court.--Any receiver appointed may be removed
22 by the court at any time upon the request of the receiver or
23 upon a showing by a party in interest that the receiver is not
24 carrying out its responsibilities under this act.

25 (j) Injunction.--Neither the filing of a petition under
26 section 4(a) nor the appointment of a receiver under subsection
27 (d) shall stay the filing or continuation of any action to
28 foreclose a mortgage or lien on the residential building or to
29 sell the property for delinquent taxes or unpaid municipal
30 claims, provided that nothing contained in this act shall

1 prevent the court in which the petition is filed, after notice
2 and hearing, from enjoining any such action if it determines
3 that the interest of the mortgagee or lienholder in the
4 residential building is adequately protected during the period
5 the injunction is in effect. In the event that the residential
6 building is sold through a mortgage foreclosure or tax sale
7 while a receiver is in possession, the property shall remain
8 subject to the receivership, and the receiver shall remain in
9 possession unless and until discharged under section 9.

10 Section 6. Powers and duties of receiver.

11 (a) Full powers and duties.--The receiver shall have all the
12 powers granted to a receiver in connection with the foreclosure
13 of a mortgage on real property under the laws of this
14 Commonwealth, and all other powers and duties necessary or
15 desirable, from time to time, for the efficient operation,
16 management and the improvement of the residential building in
17 order to bring it into compliance with all municipal building
18 and housing code requirements and to fulfill the receiver's
19 responsibilities under this act. Such powers and duties shall
20 include the power to:

21 (1) Take possession and control of the residential
22 building, appurtenant land and any personal property of the
23 owner used with respect to the residential building,
24 including any bank or operating account for the residential
25 building.

26 (2) Collect rents and outstanding accounts receivable.

27 (3) Pursue all claims or causes of action of the owner
28 with respect to the residential building and all other
29 property subject to the receivership.

30 (4) Contract for the repair and maintenance of the

1 residential building, which contracts need not be subject to
2 any advertisement or bidding requirements, but which shall be
3 filed with the court. If the court takes no action with
4 respect to the contract within 60 days the contract shall be
5 deemed approved. These contracts may include contracts or
6 agreements with tenants and members of the receiver
7 organization, provided that all such contracts or agreements
8 be appropriately documented and included in the receiver's
9 expenses and improvements under other provisions of this act.

10 (5) Borrow money and incur credit in accordance with
11 section 7.

12 (6) Contract and pay for the maintenance and/or
13 restoration of utilities to the residential building.

14 (7) Purchase materials, goods and supplies to accomplish
15 repairs and operate the residential building.

16 (8) Renew existing rental contracts and leases for a
17 period not to exceed one year.

18 (9) Enter into new rental contracts and leases for a
19 period not to exceed one year.

20 (10) Affirm, renew or enter contracts providing for
21 insurance coverage on the residential building.

22 (11) Engage and, subject to court approval, pay legal,
23 accounting, appraisal and other professionals to aid the
24 receiver in the conduct of the receivership.

25 (12) Eject or commence eviction proceedings against
26 tenants where necessary and prudent, even if the owner was
27 delinquent in taxes or municipal claims, or the dwelling was
28 unfit for human habitation, at the time of the receivership.

29 (13) Sell the residential building in accordance with
30 section 8.

1 (14) Exercise all authority that an owner of the
2 residential building would have to operate, manage, improve
3 and otherwise deal with the residential building.

4 (b) Affirmative duty.--While in possession of the
5 residential building, the receiver shall have the affirmative
6 duty to:

7 (1) Maintain, safeguard and insure the residential
8 building.

9 (2) Apply all revenue generated from the residential
10 building consistent with the provisions of this act.

11 (3) Develop the plan for the abatement of the conditions
12 which caused the petition to be granted referred to in
13 section 5(f) or, if no such feasible plan can be developed,
14 to develop alternatives, including the closing, sealing or
15 demolition of all or part of the residential building.

16 (4) Implement the plan referred to in paragraph (3) upon
17 approval by the court.

18 (5) Submit a status report to the court and parties in
19 interest every three months. This report shall include:

20 (i) A copy of any contract entered into by the
21 receiver regarding the improvement of the residential
22 building.

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

25 (iii) An account of the disposition of all revenue
26 generated from the residential building.

27 (iv) An account of all expenses and improvements.

28 (v) The status of developing and/or implementing a
29 plan pursuant to paragraph (3).

30 (vi) A description of any proposed actions to be

1 taken in the next six months to improve the residential
2 building.

3 (c) Submission of plan.--The plan referred to in subsection
4 (b)(3) shall be submitted to the court and all parties in
5 interest. After notice and an opportunity for a hearing, the
6 court may amend the plan.

7 (d) Accounting.--Upon the implementation of the plan
8 approved by the court, the receiver shall file with the court a
9 full accounting of all income and expenditures during the period
10 of time it took to implement the plan.

11 Section 7. Incurring indebtedness.

12 (a) Borrowing.--From time to time the receiver may borrow
13 money or incur indebtedness in order to preserve, insure, manage
14 or operate the residential building or to otherwise fulfill the
15 receiver's obligations under this act.

16 (b) Liens.--With the approval of the court, after notice and
17 hearing, the receiver may secure the payment of any borrowing or
18 incurrence of indebtedness under subsection (a) by a lien or
19 security interest in the residential building or the other
20 assets of the receivership. If the borrowing or incurrence of
21 indebtedness is for the safeguarding, insurance, repair or
22 improvement of the residential building to bring the building
23 into code compliance, with the exception of the first lien
24 position held by the mortgagor, subject to the provisions of
25 subsection (c), the court may authorize the receiver to grant a
26 lien or security interest with priority over all other liens or
27 mortgages, including, if approved by the municipality, municipal
28 liens and claims. No such lien shall be effective unless
29 recorded in the recorder of deeds office for the county in which
30 the residential building is located.

1 (c) Reduction in the amount of first lien; mortgagor.--The
2 court may approve a reduction in the amount of the first lien
3 where same is held by a mortgagor under the following terms and
4 conditions:

5 (1) The receiver shall have an independent appraisal
6 made of the property's market value, by a certified real
7 estate appraiser of that type property, who has been
8 certified pursuant to the act of July 10, 1990 (P.L.404,
9 No.98), known as the Real Estate Appraisers Certification
10 Act, subject to the approval of the certified real estate
11 appraiser by the court.

12 (2) If the appraised value is less than the amount of
13 the first lien held by the mortgagor, the amount of the first
14 lien shall be reduced to reflect the property value as
15 determined by the appraisal.

16 (d) Owner obligations.--Nothing in this section shall be
17 deemed to relieve the owner of the residential building of any
18 civil or criminal liability or any duty imposed by reason of
19 acts or omissions of the owner nor shall the appointment of a
20 receiver suspend any obligation the owner or any other person
21 may have for payment of taxes, any operating or maintenance
22 expense, mortgages or liens or repair of the premises.

23 Section 8. Sale of residential building.

24 (a) Sale.--Upon application of the receiver, the court may
25 order the sale of the residential building if the court finds
26 that:

27 (1) notice was given to each record owner of the
28 residential building and each lienholder of record;

29 (2) the receiver has been in control of the residential
30 building for more than one year and the owner has not

1 successfully petitioned to terminate the receivership under
2 section 9; and

3 (3) the sale would be in the best interests of the
4 parties.

5 (b) Sale free and clear.--In connection with the sale, the
6 court may authorize the receiver to sell the residential
7 building free and clear of liens, claims and encumbrances, in
8 which event, all such liens, claims and encumbrances shall be
9 transferred to the proceeds of sale with the same priority as
10 existed prior to resale in accordance with subsection (c).

11 (c) Distribution.--The court shall confirm the sale and
12 shall order a distribution of the proceeds of the sale, after
13 paying court costs, in accordance with the following priorities
14 to:

15 (1) The costs and expenses of sale.

16 (2) (i) Repay principal and interest on any borrowing
17 or incurrence of indebtedness granted priority over
18 existing liens and security interest under section 7(b);
19 and

20 (ii) any fees and expenses of the receiver in
21 connection with the sale or the safeguarding, insurance,
22 repair or improvement of the residential building.

23 (3) Valid liens and security interests in accordance
24 with their priority.

25 (4) Any costs and expenses of the receiver not covered
26 in paragraphs (1), (2) and (3).

27 (5) Reimburse expenses and improvements, planning costs,
28 attorney fees, expert witness costs and inspection fees and
29 costs incurred by the tenants, affected property owners or
30 nonprofit organizations in petitioning the court to place the

1 property in receivership.

2 (6) Any unpaid obligations of the receivership.

3 (7) The owner.

4 Section 9. Termination of receivership.

5 Upon request of a party in interest or the receiver, the
6 court may order the termination of the receivership if it
7 determines:

8 (1) the conditions that were the grounds for the
9 petition and all other code violations have been abated or
10 corrected, the obligations, expenses and improvements of the
11 receivership, including all fees and expenses of the
12 receiver, have been fully paid or provided for and the
13 purposes of the receivership have been fulfilled;

14 (2) the owner, mortgagee or lienholder has requested the
15 receivership be terminated and has provided adequate
16 assurances to the court that the conditions that constituted
17 grounds for the petition will be promptly abated, all
18 obligations, expenses and improvements of the receivership,
19 including all fees and expenses of the receiver, have been
20 fully paid or provided for and the purposes of the
21 receivership have been fulfilled;

22 (3) the residential building has been sold and the
23 proceeds distributed in accordance with section 8(c); or

24 (4) the receiver has been unable after diligent effort
25 to present a plan that could be approved under section
26 6(b)(3) or implement a previously approved plan or, for any
27 reason, the purposes of the receivership cannot be fulfilled.

28 Section 10. Sequestration.

29 A municipality may seek the appointment of a sequestrator in
30 the event that an owner has outstanding and unpaid municipal

1 claims, including, without limitation, claims arising from code
2 violations, unpaid water, sewer or gas bills or demolition
3 liens, in the same manner and with the same effect as if the
4 owner were delinquent in the payment of taxes. The remedy
5 provided in this section shall be in addition to any other
6 remedies or powers provided by law.

7 Section 20. Effective date.

8 This act shall take effect in 90 days.